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Contents

Federal Register

Vol. 81, No. 174

Thursday, September 8, 2016

Agriculture Department

- *See* Food and Nutrition Service
- *See* Forest Service

Air Force Department

NOTICES
- Meetings:
  - U.S. Air Force Academy Board of Visitors; Cancellation, 62103

Alcohol and Tobacco Tax and Trade Bureau

PROPOSED RULES
- Viticultural Areas:
  - Cape May Peninsula; Establishment, 62047–62052
- Wine Labeling and Recordkeeping Requirements, 62046–62047

Broadcasting Board of Governors

NOTICES
- Meetings; Sunshine Act, 62077

Centers for Disease Control and Prevention

NOTICES
- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62138–62139
- Information Materials for Serogroup B Meningococcal Vaccine, 62136–62137
- Vaccine Information Materials:
  - Hepatitis A and Hepatitis B Vaccines, 62139–62140
  - Polio Vaccine, 62137–62138

Centers for Medicare & Medicaid Services

NOTICES
- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62140–62141

Civil Rights Commission

NOTICES
- Meetings:
  - Tennessee Advisory Committee for Orientation and Project Planning, 62077–62078

Coast Guard

RULES
- Safety Zones:
  - Fireworks Events in Captain of the Port New York Zone, 62010

NOTICES
- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62160–62165

Commerce Department

- *See* Foreign-Trade Zones Board
- *See* Industry and Security Bureau
- *See* International Trade Administration
- *See* National Institute of Standards and Technology
- *See* National Oceanic and Atmospheric Administration

NOTICES
- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  - Collection of State Administrative Records Data, 62078

Defense Department

- *See* Air Force Department
- *See* Engineers Corps
- *See* Navy Department

NOTICES
- Meetings:
  - Judicial Proceedings Since Fiscal Year 2012 Amendments Panel, 62104–62105
  - Vietnam War Commemoration Advisory Committee, 62103–62104

Drug Enforcement Administration

NOTICES
- Importers of Controlled Substances; Applications:
  - Chattem Chemicals, Inc., 62177

Education Department

NOTICES
- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  - Student Assistance General Provisions—Subpart E—Verification of Student Aid Application Information, 62109
- Applications for New Awards:
  - Rehabilitation Services Administration—Disability Innovation Fund—Transition Work-Based Learning Model Demonstrations; Correction, 62108–62109

Energy Department

- *See* Federal Energy Regulatory Commission

RULES
- Energy Conservation Programs:
  - Test Procedures for Integrated Light-Emitting Diode Lamps; Correction, 61982–61983

NOTICES
- Applications To Export Liquefied Natural Gas:
  - Freeport LNG Expansion, LP, FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC and FLNG Liquefaction 3, LLC, 62109–62111

Engineers Corps

NOTICES
- Environmental Impact Statements; Availability, etc.:
  - Dam Safety Modification Report, Bluestone Dam, Hinton, Summers County, WV, 62105–62106
  - Proposed Lower Elkhorn Basin Levee Setback Project, Yolo County, CA, 62106–62107
- Meetings:
  - Inland Waterways Users Board, 62107–62108

Environmental Protection Agency

PROPOSED RULES
- Air Quality State Implementation Plans; Approvals and Promulgations:
  - Missouri; Open Burning Requirements, 62066–62068

NOTICES
- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  - Application Materials for the Water Infrastructure Finance and Innovation Act, 62124–62125
  - Plywood and Composite Wood Products National Emission Standards for Hazardous Air Pollutants Residual Risk and Technology Review, 62125–62127

- Meetings:
  - National Advisory Council for Environmental Policy and Technology, Assumable Waters Subcommittee, 62123
- Operating Permit Petitions:
  - New York—Seneca Energy II, LLC, 62123–62124

Federal Aviation Administration

RULES

- Airworthiness Directives:
  - Airbus Airplanes, 61990–61996
  - Fokker Services B.V. Airplanes, 61983–61985
  - Gulfstream Aerospace Corporation Airplanes, 61987–61990
  - Saab AB, Saab Aeronautics (Type Certificate Previously Held by Saab AB, Saab Aerosystems) Airplanes, 61996–61998
  - The Boeing Company Airplanes, 61985–61987, 61999–62001
- Class E Airspace; Establishments:
  - Jetmore, KS, 62002–62003
  - Lakota, ND, 62003–62004

PROPOSED RULES

- Airworthiness Directives:
  - Airbus Airplanes, 62026–62029, 62035–62037
  - Fokker Services B.V., 62029–62031
  - Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes, 62024–62026
  - The Boeing Company Airplanes, 62022–62024, 62031–62035
  - Various Aircraft Equipped With BRP-Powertrain GmbH and Co KG 912 A Series Engine, 62037–62040
- Class D and E Airspace; Amendments:
  - Georgetown, TX; Corpus Christi, TX; Dallas/Fort Worth, TX; Gainesville, TX; Graford, TX; Hebbronville, TX; and Jasper, TX, 62041–62044
- Class E Airspace; Amendments:
  - Land O'Lakes, WI; Manitowish Waters, WI; Merrill, WI; Oconto, WI; Phillips, WI; Platteville, WI; Solon Springs, WI; Superior, WI; and West Bend, WI, 62044–62046
  - Mapleton, IA, 62040–62041

NOTICES

- Airport Property Releases:
  - Southwest Florida International Airport, Fort Myers, FL, 62241

Federal Communications Commission

NOTICES

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62127–62128

Federal Deposit Insurance Corporation

NOTICES

- Terminations of Receivership:
  - Western Commercial Bank, Woodland Hills, CA, 62128–62129

Federal Energy Regulatory Commission

NOTICES

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62112–62116
- Applications:
  - Tennessee Gas Pipeline Co., LLC, 62117
- Combined Filings, 62111–62112, 62119–62122
- Compliance Filings:
  - San Diego Gas and Electric Co. v. Sellers of Energy and Ancillary Services Into Markets Operated by California Independent System Operator Corp. and California Power Exchange, 62117–62118, 62122
- Filings:
  - Western Area Power Administration, 62111–62112
- Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
  - CXA Sundevil I, Inc., 62118–62119
  - CXA Sundevil II, Inc., 62111
  - Phoenix Energy New England, LLC, 62118
- Petitions:
  - Caliber Bear Den Interconnect LLC, 62120–62121
- Requests Under Blanket Authorizations:
  - Kinetica Energy Express, LLC, 62122–62123
- Staff Attendances, 62120

Federal Highway Administration

NOTICES

- Final Federal Agency Actions:
  - Proposed Highway in California, 62241–62244

Federal Maritime Commission

NOTICES

- Agreements Filed, 62129

Federal Reserve System

NOTICES

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62129–62135
- Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 62129, 62135–62136
- Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Corrections, 62135–62136

Fish and Wildlife Service

NOTICES

- Incidental Take Permit Applications:
  - Low-Effect Habitat Conservation Plan for the Scenic Arizona Perez Home Development; Mohave County, AZ, 62170–62172

Food and Drug Administration

RULES

- Substances Generally Recognized as Safe, 62004

NOTICES

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  - Medical Devices: Current Good Manufacturing Practice Quality System, 62144–62148
  - Postmarket Surveillance, 62142–62143
- Charter Renewals:
  - Oncologic Drugs Advisory Committee, 62148–62149
- Determinations That Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness:
  - PREVACID IV (Lansoprazole) Intravenous Injection, 30 Milligrams/Vial, 62143–62144
- Guidance:
  - Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies—Questions and Answers; International Council for Harmonisation, 62141–62142

Food and Nutrition Service

NOTICES

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  - Third National Survey of WIC Participants, 62072–62076

Foreign Assets Control Office

NOTICES

- Blocking or Unblocking of Persons and Properties, 62245–62257

Foreign-Trade Zones Board

NOTICES
Proposed Production Activities:
TopShip, LLC, Foreign-Trade Zone 92, Gulfport, MS, 62078–62079

Forest Service

NOTICES
Meetings:
Prince William Sound Resource Advisory Committee, 62077

Geological Survey

NOTICES
Meetings:
National Geospatial Advisory Committee, 62172

Health and Human Services Department

See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Delegations of Authority, 62149–62150

Health Resources and Services Administration

NOTICES
Meetings:
National Advisory Council on the National Health Service Corps, 62149

Homeland Security Department

See Coast Guard
See U.S. Customs and Border Protection

Housing and Urban Development Department

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Community Compass TA and Capacity Building Program NOFA, 62166–62167
Evaluation of the Rental Assistance Demonstration Program, Phase 2, 62167–62168
Federal Labor Standards Payee Verification and Payment Processing, 62169–62170
Federal Labor Standards Questionnaire Complaint Intake Form, 62170
Mortgage Insurance Termination; Application for Premium Refund or Distributive Share Payment, 62168–62169
Single Family Loan Sales, 62165–62166

Industry and Security Bureau

NOTICES
Effectiveness of Licensing Procedures for Agricultural Commodities:
Cuba, 62079
Effects of Extending Foreign Policy-Based Export Controls, 62080–62081

Interior Department

See Fish and Wildlife Service
See Geological Survey
See National Park Service

International Trade Administration

NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
1-Hydroxyethylidene-1, 1-Diphosphonic Acid From People's Republic of China, 62084–62086
Activated Carbon From the People's Republic of China, 62088–62093
Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, 62094–62096
Certain Preserved Mushrooms From India, 62081–62082
Finished Carbon Steel Flanges From India, 62098–62099
Opportunity To Request Administrative Review, 62096–62098
Stainless Steel Bar From India, 62086–62088
Sunset Reviews, 62086
Wooden Bedroom Furniture, From the People's Republic of China, 62083–62084

International Trade Commission

NOTICES
Complaints:
Certain Memory Modules and Components Thereof; Products Containing Same, 62176–62177

Justice Department

See Drug Enforcement Administration
RULES
Federal Awarding Agency Regulatory Implementation of Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 61981–61982

Labor Department

See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Linking Employment Activities Pre-Release Evaluation, 62177–62178

Maritime Administration

NOTICES
Requests for Administrative Waivers of the Coastwise Trade Laws:
Vessel 14 PENNIES, 62244
Vessel GRIFFIN, 62245
Vessel PERSISTENCE, 62244–62245

National Institute of Standards and Technology

NOTICES
Performance Review Board Membership, 62099

National Institutes of Health

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Cancer Prevention Fellowship Program Fellowship Program and Summer Curriculum Applications, 62156–62157
Challenges:
Antimicrobial Resistance Rapid, Point-of-Need Diagnostic Test; Requirements and Registration Announcements, 62150–62156
Meetings:
Center for Scientific Review, 62150, 62157–62160
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 62158–62159

National Institute of Allergy and Infectious Diseases, 62150
National Institute of Mental Health, 62156
National Institute on Aging, 62150

National Oceanic and Atmospheric Administration
RULES
Alaska Humpback Whale Approach Regulations, 62018–62021
Approach Regulations for Humpback Whales in Waters Surrounding Islands of Hawaii:
  Environmental Assessments; Availability, etc., 62010–62018
Endangered and Threatened Species:
  Identification of 14 Distinct Population Segments of Humpback Whale, Megaptera novaeangliae, and Revision of Species-Wide Listing, 62260–62320
PROPOSED RULES
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
  Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures, 62069–62071
NOTICES
Environmental Assessments; Availability, etc.:
  Atlantic Highly Migratory Species; Essential Fish Habitat, 62100–62103
Meetings:
  Western Pacific Fishery Management Council, 62099–62100
Performance Review Board Membership, 62099

National Park Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  National Capital Region Application for Public Gathering, 62172–62173
  National Park Service Leasing Program, 62173–62174
  Research Permit and Reporting System Applications and Reports, 62175–62176

Navy Department
RULES
Certifications and Exemptions Under the International Regulations:
  Preventing Collisions at Sea, 62008–62010

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  Reporting of Defects and Noncompliance, 62184–62185
  Security Termination Statement, 62178–62179
  Suspicious Activity Reporting Using the Protected Web Server, 62179–62180
Direct Transfer of Licenses; Applications:
  Eagle Rock Enrichment Facility and Lucky Mc Uranium Mill, 62180–62184

Occupational Safety and Health Administration
PROPOSED RULES
Fall Protection in Shipyard Employment, 62052–62066

Postal Regulatory Commission
NOTICES
New Postal Products, 62185

Presidential Documents
PROCLAMATIONS
Special Observances:
  National Alcohol and Drug Addiction Recovery Month (Proc. 9479), 61973–61974
  National Childhood Cancer Awareness Month (Proc. 9483), 62345–62348
  National Childhood Obesity Awareness Month (Proc. 9480), 61975–61976
  National Ovarian Cancer Awareness Month (Proc. 9484), 62349–62350
  National Preparedness Month (Proc. 9481), 61977–61978
  National Prostate Cancer Awareness Month (Proc. 9485), 62351–62352
  National Wilderness Month (Proc. 9482), 61979–61980

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62221–62222
Self-Regulatory Organizations; Proposed Rule Changes:
  Bats BYX Exchange, Inc., 62192–62195, 62198–62200
  Bats BZX Exchange, Inc., 62195–62198, 62225–62226
  Bats EDGA Exchange, Inc., 62219–62221, 62226–62228
  Bats EDGX Exchange, Inc., 62185–62187, 62205–62208
  Chicago Board Options Exchange, Inc., 62208–62212
  Financial Industry Regulatory Authority, Inc., 62222–62225
  ICE Clear Europe Ltd., 62228–62229
  NASDAQ Stock Market LLC, 62212–62216, 62229–62233
  National Stock Exchange, Inc., 62187–62192
  New York Stock Exchange LLC, 62200–62202
  NYSE Arca, Inc., 62192, 62198, 62203–62205, 62233
  NYSE MKT LLC, 62216–62218

Small Business Administration
NOTICES
Conflict of Interest Exemptions:
  New York Credit SBIC Fund, LP, 62234–62235
Disaster Declarations:
  California, 62233–62234
  Kentucky, 62234
Small Business Investment Company License Surrenders:
  Equinox Capital SBIC, L.P., 62234

State Department
RULES
International Traffic in Arms:
  Revisions to Definition of Export and Related Definitions, 62004–62008
PROPOSED RULES
Intercountry Adoptions, 62322–62343
NOTICES
Culturally Significant Objects Imported for Exhibition:
  Glory of Venice—Masterworks of the Renaissance, 62239
  Helio Oiticica—To Organize Delirium, 1944–1980, 62240
  Keir Collection of Art of the Islamic World, 62239–62240
  Monet—The Early Years, 62240
  Paint the Revolution—Mexican Modernism, 1910–1950, 62239
Privacy Act; Systems of Records, 62235–62239

Surface Transportation Board
NOTICES
Operation Exemptions:
  Wheeling and Lake Erie Railway Co. Valley Line, Harrison and Jefferson Counties, OH, 62240–62241

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Maritime Administration

Treasury Department
See Alcohol and Tobacco Tax and Trade Bureau
See Foreign Assets Control Office
See United States Mint
RULES
Investigations of Claims of Evasions of Antidumping and Countervailing Duties; Correction, 62004

U.S. Customs and Border Protection
RULES
Investigations of Claims of Evasions of Antidumping and Countervailing Duties; Correction, 62004

United States Mint
NOTICES
Product Pricing:
2016 United States Mint American Eagle Products, 62257

Separate Parts In This Issue

Part II
Commerce Department, National Oceanic and Atmospheric Administration, 62260–62320

Part III
State Department, 62322–62343

Part IV
Presidential Documents, 62345–62352

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

2 CFR
2800................................61981

3 CFR
Proclamations:
9479................................61973
9480................................61975
9481................................61977
9482................................61979
9483................................62347
9484................................62349
9485................................62351

10 CFR
430..................................61982

14 CFR
39 (7 documents) 61983, 61985, 61987, 61990, 61993, 61996, 61999
71 (2 documents) 62002, 62003
Proposed Rules:
39 (7 documents) 62022, 62024, 62026, 62029, 62031, 62035, 62037
71 (3 documents) 62040, 62041, 62044

19 CFR
165 (2 documents) 62004

21 CFR
20....................................62004
25....................................62004
170..................................62004
184..................................62004
186..................................62004
570..................................62004

22 CFR
120..................................62004
125..................................62004
126..................................62004
130..................................62004
Proposed Rules:
96....................................62322

27 CFR
Proposed Rules:
4......................................62046
9......................................62047
24....................................62046

28 CFR
66....................................61981
70....................................61981

29 CFR
Proposed Rules:
1915................................62052

32 CFR
706..................................62008

33 CFR
165..................................62010

40 CFR
Proposed Rules:
52....................................62066

50 CFR
216 (2 documents) 62010, 62018
223 (2 documents) 62018, 62260
224 (2 documents) 62018, 62260
Proposed Rules:
622..................................62069

Federal Register
Vol. 81, No. 174
Thursday, September 8, 2016

Presidential Documents

Title 3—

The President

Proclamation 9479 of August 31, 2016

National Alcohol and Drug Addiction Recovery Month, 2016

By the President of the United States of America

A Proclamation

Every day, millions of Americans prove that recovery from alcohol and substance use disorders is possible—yet at the same time, millions more are struggling with the disease of addiction. These individuals are our family members, friends, and neighbors, and when they are not able to get the help they need, our communities and our country are not as strong as they can be. It is up to all of us to help our loved ones seek life-saving services when needed and steer them toward recovery. Throughout this month, we celebrate the successes of all those who know the transformative power of recovery, and we renew our commitment to providing the support, care, and treatment that people need to forge a healthier life.

Substance use disorder, commonly known as addiction, is a disease of the brain, and many misconceptions surrounding it have contributed to harmful stigmas that can prevent individuals from seeking the treatment they need. By treating substance use disorders as seriously as other medical conditions, with an emphasis on prevention and treatment, people can recover. This month's theme is, "Join the Voices for Recovery: Our Families, Our Stories, Our Recovery!". Focusing on the importance of family support throughout recovery, it invites families, loved ones, and other individuals to share their stories and triumphs in fighting substance use disorders to inspire others that may follow in their footsteps. I encourage all Americans looking for assistance to use the "Treatment Locator" tool at www.SAMHSA.gov or call 1–800–662–HELP.

This disease can touch any American in any community, and my Administration has made combatting substance use disorders a priority. Under the Affordable Care Act, insurance companies must now cover substance use disorder services as essential health benefits. The Mental Health Parity and Addiction Equity Act requires health plans that cover mental health and substance use disorder treatment to provide coverage that is comparable to that of medical and surgical care. Through our National Drug Control Strategy—a 21st century approach to reducing drug use and its consequences—we have promoted evidence-based health and safety initiatives that aim to prevent drug use, increase opportunities for early intervention and integrated treatment in health care, and support recovery. In response to our Nation's opioid overdose epidemic, we are highlighting tools that can help reduce drug use and overdose, such as evidence-based prevention programs, prescription drug take-back events, medication-assisted treatment for people with opioid use disorders, and the overdose reversal drug naloxone. That is why, in my most recent budget proposal, I proposed investing $1 billion to expand access to treatment for prescription opioid misuse and heroin use. I will continue urging the Congress to fund treatment like I have proposed—because if they fund these efforts, we can help more individuals across our country seek help, complete treatment, and sustain recovery.

During National Alcohol and Drug Addiction Recovery Month, let us thank health care professionals, support groups, and all those dedicated to helping individuals in need find assistance and reclaim their lives. Let us continue working to address substance use disorders in our communities and promote the health, safety, and prosperity of the American people.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2016 as National Alcohol and Drug Addiction Recovery Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

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Presidential Documents

Proclamation 9480 of August 31, 2016

National Childhood Obesity Awareness Month, 2016

By the President of the United States of America

A Proclamation

Childhood obesity has both immediate and long-term effects on a child's health and well-being—it puts our young people at higher risk for health problems in adulthood and it can strain our economy in the years ahead. But collaborative efforts in recent years have helped our Nation make progress and begin to reverse these trends. By fostering environments that support healthy choices and giving families the knowledge and resources they need to make smart decisions, we can move closer toward ensuring all our children grow up healthy. Every September, as children begin the new school year, we recommit to solving the epidemic of childhood obesity within the next generation.

Over the course of my Presidency, we have put forward new programs, policies, and initiatives that put children on a path to a healthy future. At the launch of First Lady Michelle Obama's *Let's Move!* initiative, I established the first-ever Task Force on Childhood Obesity to develop a national action plan to mobilize the public and private sectors and engage families and communities in an effort to improve the health of our children. Combining comprehensive strategies with common sense, *Let's Move!* is focused on helping children lead a healthier life during their earliest months and years; providing healthier foods in our schools; ensuring every family has access to healthy, affordable food; and getting children to become more physically active. Everyone has a role to play in ensuring all of our kids grow up healthy, including parents and caregivers, elected officials from all levels of government, schools, health care professionals, faith-based and community-based organizations, and the private sector. For the past 5 years we have welcomed students to the White House from across our Nation to create original and healthy recipes in our annual Healthy Lunchtime Challenge and Kids' "State Dinner." The First Lady has also invited students to join her in planting and harvesting the White House Kitchen Garden to learn about where their food comes from and experience firsthand how healthy food can be fun and delicious.

Earlier this year, the Food and Drug Administration introduced a modernized Nutrition Facts label—which includes more realistic serving sizes and information on added sugars—to provide families with the accurate information they need to make healthy choices. We know there is a strong connection between what our kids eat and how well they perform in school, too. That is why, in 2010, I signed the bipartisan Healthy, Hunger-Free Kids Act, a law that improves the quality of school meals and snacks for over 50 million students so they have the fuel they need to focus on their education and grow up healthy. A recent study showed that because of the increased availability and variety of fruits and vegetables in school meals, students have been empowered to make healthier choices since these standards were updated. The Act increased the number of students who could get school meals at little or no cost and ensured that any food or beverage marketed to children at school meets specific nutrition standards. It also helped bring about the first major revision of nutrition standards for the Child and Adult Care Food Program since its inception more than 40 years ago.

In addition to improving the nutrition of the food our children eat, we will keep striving to create opportunities for kids to become more physically active. The *Physical Activity Guidelines for Americans* recommend that kids be active for at least 60 minutes every day, but less than one-third of teenagers have met that goal in recent years. Last year, the Surgeon General called on communities to recognize the importance of exercise by walking more and by improving the walkability of our neighborhoods. Through our "Every Kid in a Park" initiative, we have opened up our National Parks to fourth graders and their families for free, so that children from all backgrounds, parts of the country, and walks of life can get outdoors more easily.

This year, as we observe National Childhood Obesity Awareness Month, let us renew our commitment to giving America's daughters and sons a healthy start in life. Let us continue to encourage parents and caregivers to make nutritious choices and help their children do the same, improve access to healthy and affordable foods in our communities and our schools, and promote active lifestyles. We must each do our part to reduce childhood obesity and empower our children to reach for the brighter, healthier future they deserve.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2016 as National Childhood Obesity Awareness Month. I encourage all Americans to learn about and engage in activities that promote healthy eating and greater physical activity by all our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

[FR Doc. 2016–21752
Filed 9–7–16; 8:45 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9481 of August 31, 2016

National Preparedness Month, 2016

By the President of the United States of America

A Proclamation

Americans have been tested by trial and tragedy since our earliest days—but year after year, no matter the hardship, we pull through and forge ahead. Fifteen years after the attacks of September 11, we reflect on our strength as a Nation when anything threatens us. Today, as the residents of Louisiana mourn the loss of loved ones and face tremendous damage caused by historic floods, we are reminded of what Americans do in times like these—we see the power of love and community among neighbors who step up to help in extraordinarily difficult circumstances. Preparing ourselves to meet the unknown challenges of tomorrow is a duty we all share, and when confronted with crisis or calamity, we need to have done everything possible to prepare. During National Preparedness Month, we emphasize the importance of readying ourselves and our communities to be resilient in the face of any emergency we may encounter.

Although my Administration continues doing everything we can to keep the American people safe, it is each citizen's responsibility to be as prepared as possible for emergencies. Whether in the form of natural disasters like hurricanes and earthquakes, or unspeakable acts of evil like terrorism, danger can arise at unexpected times and places. Fortunately, there are many things that individuals, families, and communities can do to improve their readiness. I encourage all Americans to take proactive steps to prepare for any situation that may occur—including signing up for local alerts, checking insurance coverage, documenting valuables, creating a plan for emergency communication and evacuation, and having a fully stocked disaster supply kit on hand. And I encourage those in the business community to prepare their employees, develop a business continuity plan, and engage in community-level planning to help ensure our communities and private sector remain strong when faced with an emergency. For information on how to better prepare for emergencies that are common in your area, or to learn about resources that may be available for increasing preparedness, visit www.Ready.gov or www.Listo.gov.

In the face of unpredictable threats and hazards, we are committed to improving access to information and raising awareness of the importance of precautionary measures. Leaders across our country should take the time to review the 2016 National Preparedness Report and find ways to address the vulnerabilities it highlights. All Americans can play a role in fulfilling our National Preparedness Goal by addressing the risks that affect them and participating in preparedness activities across our Nation.

We continue to collaborate with State, local, and tribal partners, along with those in the public and private sectors, to ensure that communities in crisis do not have to face these dangers alone. In addition to coordinating relief efforts and providing rapid response, we have focused on supporting the needs of survivors, investing in affected neighborhoods, and helping them rebuild their communities to be better, stronger, and more resilient. Federal agencies are also working to share resources with the public, promote the tools and technologies that could help during disasters, and offer preparation strategies. We launched America's PrepareAthon! to bring communities together and help them plan for emergencies, and on September 30, we encourage a national day of action to spur preparedness efforts from coast to coast.

Disasters have become more frequent and severe as our climate changes; both urban and rural areas are already feeling the devastating consequences, including severe droughts and higher sea levels, intense storms and wildfires, and more powerful hurricanes and heat waves. Climate change poses an imminent and lasting threat to our safety and national security, and it is critical that we invest in our infrastructure and integrate the preparedness efforts of our communities to improve our ability to respond to and recover from the effects of our changing climate and extreme weather events.

This month, we pay tribute to the courageous individuals who rush to the scene of disaster for their dedication to our safety and security, no matter the price. Let us recognize that each of us can do our part to prepare for emergencies, help those affected by disasters, and ensure all our people have the necessary resources and knowledge to protect themselves. Together, we will remain strong and resilient no matter what befalls us.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2016 as National Preparedness Month. I encourage all Americans to recognize the importance of preparedness and work together to enhance our resilience and readiness.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

[FR Doc. 2016–21754
Filed 9–7–16; 8:45 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9482 of August 31, 2016

National Wilderness Month, 2016

By the President of the United States of America

A Proclamation

In our Nation's earliest days, a vast majority of North America was wilderness—from majestic plains and imposing mountain ranges to dense forests and rushing waterways. Today, protected wild spaces continue to serve as a backdrop for curious and adventurous Americans to seek the thrill and joy of connecting with the sacred spirit of our country's wilderness, offering a wide variety of activities including hiking, camping, and climbing. This month, as we cherish our vast and vibrant natural heritage, we resolve to preserve its splendors for all who will follow in our footsteps.

Aiming to leave future generations with a "glimpse of the world as it was in the beginning," President Lyndon B. Johnson signed into law two historic pieces of legislation that opened a new chapter in American conservation—the Wilderness Act and the Land and Water Conservation Fund Act. The Wilderness Act defined our untrammeled lands as wilderness and created the National Wilderness Preservation System, recognizing forests, parks, and wildlife refuges as having intrinsic value as wild lands worth protecting. The Land and Water Conservation Fund (LWCF) was established out of a bipartisan commitment to ensure that we can protect lands and waters for use and enjoyment by all our people; throughout the last 50 years it has supported conservation efforts in every State, including tens of thousands of State and local projects through billions of dollars in grants. But a lack of full and secure funding hinders many important LWCF projects that protect critical habitats and provide recreational opportunities—which is why I keep calling on the Congress to pursue permanent funding for the LWCF.

Our great outdoors are home to some of the richest and most beautiful ecosystems and resources on the planet, and my Administration has made protecting them a priority. Climate change, one of the greatest challenges of our time, is already harming many of our wild spaces, which is one important reason why I have pushed for stronger action to cut greenhouse gas pollution and strengthen the resilience of our ecosystems to rising temperatures. In my first year in office, I signed the most extensive expansion of conservation efforts in more than a generation. Since then, my Administration has protected hundreds of millions of acres of land and water, more than any Administration in history. Through our America's Great Outdoors initiative, we have worked with local, State, and tribal partners to build a conservation agenda worthy of the 21st century. And to ensure more Americans can experience everything the wilderness has to offer, we launched the "Every Kid in a Park" initiative, giving fourth graders and their families free entrance to our National Parks and other public lands and waters.

It is one of our greatest responsibilities as citizens of this Nation and stewards of this planet to protect these outdoor spaces of incomparable beauty and to ensure that this powerful inheritance is passed on to future generations. During National Wilderness Month, let us strengthen our connection with these natural treasures and ensure that the stories they tell and the resources they provide are resilient and everlasting in the years to come.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2016 as National Wilderness Month. I invite all Americans to visit and enjoy our wilderness areas, to learn about their vast history, and to aid in the protection of our precious national treasures.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

[FR Doc. 2016–21759
Filed 9–7–16; 8:45 am]
Billing code 3295–F6–P

Rules and Regulations

Federal Register
Vol. 81, No. 174
Thursday, September 8, 2016

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

2 CFR Part 2800

28 CFR Parts 66 and 70

RIN 1121–AA81

AG Order No. 3737–2016

Federal Awarding Agency Regulatory Implementation of Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice finalizes its implementation of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) published by the Office of Management and Budget (OMB) on December 26, 2013.

DATES: This rule is effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Rafael A. Madan, General Counsel, Office of Justice Programs, (202) 307–0790.

SUPPLEMENTARY INFORMATION: This rule makes technical corrections to, and finalizes, the interim final rule that was published by the Department of Justice (Department) on December 19, 2014, and that went into effect on December 26, 2014. See 79 FR 76081. The interim final rule added 2 CFR part 2800, which implements and supplements parts of 2 CFR part 200 for the Department of Justice, and removed 28 CFR parts 66 and 70, which were superseded by 2 CFR part 200.

The Department of Justice received no comments in response to its portion of the interim final rule. Therefore, the interim final rule is finalized with no substantive changes. The Department has made minor technical changes to make clear that where the Department's implementing rule incorporates by reference other provisions of law, it does so by general reference, which incorporates future amendments to those provisions.

Regulatory Analysis

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA), see 44 U.S.C. 3506, the Department of Justice reviewed its final rule and determined that there are no new collections of information contained therein. However, the OMB uniform guidance in 2 CFR part 200 may have a negligible effect on burden estimates for existing information collections, including recordkeeping requirements for non-Federal entities that receive Federal awards.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency that is issuing a final rule to provide a final regulatory flexibility analysis or to certify that the rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b). This rule finalizes the interim final rule implementing for the Department of Justice the OMB guidance at 2 CFR part 200. The OMB guidance consolidated and updated several guidance documents codified and published in various places into one omnibus document. The consolidation and updates are designed to streamline the Federal grant process, and should, as a whole, substantially simplify the requirements and cost principles applicable to many federally funded entities. Thus, the rule will not have a significant economic impact on a substantial number of small entities.

Executive Orders 12866 and 13563—Regulatory Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review," section 1(b), General Principles of Regulation.

The Department of Justice has determined that this rule is a not "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Further, Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic effects, environmental effects, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has assessed the costs and benefits of this regulation and believes that the regulatory approach selected maximizes net benefits.

Administrative Procedure Act

The rule issued by the Department of Justice concerns matters relating to "grants, benefits, or contracts," 5 U.S.C. 553(a)(2), and therefore is exempt from the requirement of prior notice and comment. Thus, the Department, along with other Federal grant-making agencies, published an interim final rule that was effective on December 26, 2014. The Department received no comments on its interim final rule.

Generally, those agencies that are subject to the Administrative Procedure Act (APA) are required to delay the effective date of their final regulations by 30 days after publication. See 5 U.S.C. 553(d). The interim final rule issued by the Department that went into effect on December 26, 2014, concerned matters relating to "grants, benefits, or contracts," 5 U.S.C. 553(a)(2), and therefore was exempt from the requirement of a 30-day delay in the effective date. This rule finalizes, with non-substantive technical changes, the interim final rule that is already in effect, and the final rule will take effect upon publication in the **Federal Register**.

Unfunded Mandates Reform Act of 1995

Determination

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), 2 U.S.C.

1532, requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act, 2 U.S.C. 1535, also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. OMB determined that the joint interim-final rule would not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. See 79 FR 75877. Thus, a budgetary impact statement was not required for the interim final rule, and is not required here.

Executive Order 13132 Determination

The Department determined, as required by Executive Order 13132, "Federalism", that the joint interim final rule did not have any federalism implications. This final rule similarly has no federalism implications.

List of Subjects

2 CFR Part 2800

Accounting, Colleges and universities, Grant programs, Hospitals, Indians, Intergovernmental relations, Nonprofit organizations, Reporting and recordkeeping requirements.

28 CFR Part 66

Accounting, Administrative practice and procedure, Reporting and recordkeeping requirements.

28 CFR Part 70

Accounting, Administrative practice and procedure, Reporting and recordkeeping requirements.

Accordingly, the interim final rule published by the Department of Justice on December 19, 2014, adding 2 CFR part 2800, and removing 28 CFR parts 66 and 70, is adopted as a final rule with the following changes:

Title 2—Grants and Agreements

CHAPTER XXVIII—DEPARTMENT OF JUSTICE

PART 2800—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS BY THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for part 2800 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509; 28 U.S.C. 530C(a)(4); 42 U.S.C. 3789; 2 CFR part 200.

■ 2. Section 2800.101 is revised to read as follows:

§ 2800.101 Adoption of 2 CFR part 200.

Under the authority listed above, the Department of Justice adopts the Office of Management and Budget (OMB) Guidance in 2 CFR part 200, except as otherwise may be provided by this Part. Unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference and thus to include any subsequent changes to the provision.

Dated: August 31, 2016.

Loretta E. Lynch,

Attorney General.

[FR Doc. 2016–21452 Filed 9–7–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2011–BT–TP–0071]

RIN 1904–AC67

Energy Conservation Program: Test Procedures for Integrated Light-Emitting Diode Lamps; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; correction.

SUMMARY: On July 1, 2016, the U.S. Department of Energy (DOE) published a final rule adopting a test procedure for integrated light-emitting diode (LED) lamps (hereafter referred to as "LED lamps") to support the implementation of labeling provisions by the Federal Trade Commission, as well as the ongoing general service lamps rulemaking, which includes LED lamps (hereafter the "July 2016 final rule"). This correction addresses an error in the July 2016 final rule to add appendix BB to 10 CFR 430.3(p)(5). Neither the error nor the correction in this document affect the substance of the test procedure rulemaking or any of the conclusions reached in support of the final rule.

DATES: *Effective Date:* September 8, 2016.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *light_emitting_diodes@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE published the July 2016 final rule in the **Federal Register** on July 1, 2016, which adopted the test procedures for LED lamps in Appendix BB to support the implementation of labeling provisions by the Federal Trade Commission, as well as the ongoing general service lamps rulemaking, which includes LED lamps. 81 FR 43403. The test procedure for standby power adopted in the July 2016 final rule references the test standard published by the International Electrotechnical Commission (IEC), titled "Household electrical appliances—Measurement of standby power," IEC 62301 (Edition 2.0, 2011–01). Therefore, to incorporate by reference IEC 62301 for appendix BB, DOE attempted to amend § 430.3 to add appendix BB to the list of approved appendices in existing paragraph (p)(5). However, the amendatory instruction was incorrectly written and appendix BB was not added. This final rule corrects § 430.3(p)(5) to include appendix BB.

Procedural Issues and Regulatory Review

The regulatory reviews conducted for this rulemaking are those set forth in the July 2016 final rule that originally codified DOE's adopted test procedures for integrated LED lamps. The test procedures in the July 2016 final rule became effective August 1, 2016.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), DOE has determined that notice and prior opportunity for comment on this rule are unnecessary and contrary to the public interest. Neither the error nor the correction in this document affect the substance of the rulemaking or any of the conclusions reached in support of the final rule. For these reasons, DOE has also determined that there is good cause to waive the 30-day delay in effective date.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on August 31, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends part 430 of title 10 of the Code of Federal Regulations by making the following correcting amendment:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.3 [Corrected]

■ 2. Section 430.3(p)(5) is corrected by removing the text "Z and CC" and adding in its place, the text "Z, BB, and CC".

[FR Doc. 2016–21577 Filed 9–7–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6665; Directorate Identifier 2015–NM–070–AD; Amendment 39–18644; AD 2016–18–13]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. This AD was prompted by an aileron-wing flutter analysis finding that, when a hydraulic aileron actuator is not powered while at least one aileron flutter damper is inoperative (latent failure), the maximum speed currently defined in the airplane flight manual (AFM) is insufficient to meet the required safety margin. This AD requires revising the AFM to include procedures to follow in the event of a hydraulic system failure and abnormal flight control behavior. We are issuing this AD to ensure that the flightcrew has procedures to follow in the event of a hydraulic system failure and abnormal flight control behavior. If not corrected, this condition could lead to aileron flutter and possible reduced control of the airplane.

DATES: This AD is effective October 13, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 13, 2016.

ADDRESSES: For service information identified in this final rule, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6665.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6665; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 253–227–1137; fax 253–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. The NPRM published in the **Federal Register** on May 13, 2016 (81 FR 29800) ("the NPRM"). The NPRM was prompted by an aileron-wing flutter analysis finding that, when a hydraulic aileron actuator is not powered while at least one aileron flutter damper is inoperative (latent failure), the maximum speed currently defined in the AFM is insufficient to meet the required safety margin. The NPRM proposed to require revising the AFM to include procedures to follow in the event of a hydraulic system failure and abnormal flight control behavior. We are issuing this AD to ensure that the flightcrew has procedures to follow in the event of a hydraulic system failure and abnormal flight control behavior. If not corrected, this condition could lead to aileron flutter and possible reduced control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0078, dated May 6, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. The MCAI states:

> In the frame of a complementary aileron-wing flutter analysis performed by Fokker Services, it has been found that in case a hydraulic aileron actuator is not powered, while at least one aileron flutter damper is inoperative (latent failure), the maximum speed currently defined in the Airplane Flight Manual (AFM) is insufficient to meet the required safety margin.
>
> This condition, if not corrected, could lead to aileron flutter, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Fokker Services published an AFM change through Manual Change Notification—Operational (MCNO) F100–066 which introduces an additional step in the Abnormal Procedures for [a] hydraulic [system] failure and for abnormal flight control behaviour. This new step consists in a speed reduction to Vra (IAS 250kt/M 0.65) to restore a sufficient margin to the flutter speed.
>
> For the reasons described above, this [EASA] AD requires incorporation of the amended abnormal procedures into the applicable AFM.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6665.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

We reviewed Fokker Manual Change Notification—Operational Documentation MCNO–F100–066, dated December 1, 2014. The service information contains amendments to applicable AFMs that introduce an additional step in the abnormal procedures for a hydraulic system failure and abnormal flight control behavior. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

We estimate that this AD affects 8 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $680, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–18–13 Fokker Services B.V.: Amendment 39–18644; Docket No. FAA–2016–6665; Directorate Identifier 2015–NM–070–AD.

(a) Effective Date

This AD is effective October 13, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by an aileron-wing flutter analysis finding that, when a hydraulic aileron actuator is not powered while at least one aileron flutter damper is inoperative (latent failure), the maximum speed currently defined in the airplane flight manual (AFM) is insufficient to meet the required safety margin. We are proposing this AD to ensure that the flightcrew has procedures to follow in the event of a hydraulic system failure and abnormal flight control behavior. If not corrected, this condition could lead to aileron flutter and possible reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) AFM Revision

Within 12 months after the effective date of this AD, revise the Abnormal Procedures and Limitations sections of the applicable AFM to include the information in Fokker Manual Change Notification—Operational Documentation MCNO–F100–066, dated December 1, 2014. This may be accomplished by inserting a copy of Fokker Manual Change Notification—Operational Documentation MCNO–F100–066, dated December 1, 2014, into the applicable AFM. Fokker Manual Change Notification—Operational Documentation MCNO–F100–066, dated December 1, 2014, introduces procedures for the flightcrew to follow in the event of a hydraulic system failure and abnormal flight control behavior. When the information in Fokker Manual Change Notification—Operational Documentation MCNO–F100–066, dated December 1, 2014, is included in the general revisions of the AFM, the general revisions may be inserted in the AFM, and Fokker Manual Change Notification—Operational Documentation MCNO–F100–066, dated December 1, 2014, may be removed.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0078, dated May 6, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6665.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Fokker Manual Change Notification-Operational Documentation MCNO F100–066, dated December 1, 2014.

(ii) Reserved.

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.tml.*

Issued in Renton, Washington, on August 29, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21288 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6901; Directorate Identifier 2015–NM–192–AD; Amendment 39–18646; AD 2016–18–15]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead is subject to widespread fatigue damage (WFD). This AD requires repetitive inspections of the aft pressure bulkhead web for any cracking, crack indications, discrepant fastener holes, and corrosion; and corrective actions if necessary. We are issuing this AD to detect and correct cracks in the aft pressure bulkhead web, which could result in an uncontrolled decompression of the fuselage.

DATES: This AD is effective October 13, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 13, 2016.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6901.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6901; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *Alan.Pohl@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. The NPRM published in the **Federal Register** on June 21, 2016 (81 FR 40208) (“the NPRM”). The NPRM was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead is subject to widespread fatigue damage (WFD). The NPRM proposed to require repetitive inspections of the aft pressure bulkhead web for any cracking, crack indications, discrepant fastener holes, and corrosion; and corrective actions if necessary. We are issuing this AD to detect and correct cracks in the aft pressure bulkhead web, which could result in an uncontrolled decompression of the fuselage.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. Boeing, the Airline Pilots Association International, and United Airlines supported the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST00830SE does not affect compliance with the actions specified in the NPRM.

We agree with the commenter. We have redesignated paragraph (c) of the NPRM as (c)(1) and added a new paragraph (c)(2) to this final rule to state that installation of STC ST00830SE does not affect the ability to accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST00830SE is installed, a “change in product” Alternative Method of Compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that this change will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015. The service information describes procedures for low frequency eddy current, or high frequency eddy current, and detailed inspections of the bulkhead web for cracking, crack indications, discrepant fastener holes, and corrosion. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 680 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Inspections	34 work-hours × $85 per hour = $2,890 per inspection cycle	$2,890 per inspection cycle ...	$1,965,200 per inspection cycle.

We have received no definitive data that enables us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–18–15 The Boeing Company: Amendment 39–18646; Docket No. FAA–2016–6901; Directorate Identifier 2015–NM–192–AD.

(a) Effective Date

This AD is effective October 13, 2016.

(b) Affected ADs

Certain requirements of this AD terminate certain requirements of AD 2005–21–06, Amendment 39–14344 (70 FR 61226, October 21, 2005) ("AD 2005–21–06").

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, line number 1 through 1755, as identified in Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSTC.nsf/0/38B606833BBD98B386257FAA00602538?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a "change in product" alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead is subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct cracks in the aft pressure bulkhead web, which could result in an uncontrolled decompression of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspections

At the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015, or within 18 months after November 25, 2005 (the effective date of AD 2005–21–06), whichever occurs later: Do a low frequency eddy current (LFEC) or high frequency eddy current (HFEC) inspection, and a detailed inspection, of the aft and forward sides, as applicable, of the aft pressure bulkhead web at the Y chord, above and below stringer S–15L and stringer S–15R, to detect discrepancies (including cracking, crack indications, discrepant fastener holes, and corrosion), in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015. Access and restoration procedures specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015, are not required by this AD. Operators may do those procedures following their maintenance practices.

(1) If no discrepancy is found: Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015.

(2) If any discrepancy is found: Do the actions specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Repair the discrepancy before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(ii) On areas that are not repaired, repeat the inspections thereafter at the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015.

(h) Terminating Action for AD 2005–21–06

Accomplishment of the initial inspections required by paragraph (g) of this AD terminates the requirements of AD 2005–21–06.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–53A1248, dated September 9, 2004; or Boeing Alert Service Bulletin 737–53A1248, Revision 1, dated September 10, 2007; which are not incorporated by reference in this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *Alan.Pohl@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 30, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21410 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9070; Directorate Identifier 2016–NM–118–AD; Amendment 39–18642; AD 2016–18–11]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Gulfstream Aerospace Corporation Model G–1159, G–1159A, G–1159B, G–IV, and GV airplanes; and certain Model GIV–X and GV–SP airplanes. This AD requires a one-time replacement of the actuator end cap fitting of the main landing gear (MLG) door, and revision of the maintenance or inspection program to establish the life limit of the end cap fitting. This AD was prompted by a report of the failure of the right MLG to extend due to fatigue cracking of the end cap fitting. We are issuing this AD to prevent such cracking, which could result in depletion of the combined (left) and utility hydraulic system fluid and the nitrogen emergency blowdown system, failure of the combined (left) hydraulic system (all phases) to provide adequate hydraulic pressure, and failure of the MLG to extend when commanded.

DATES: This AD is effective September 23, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2016.

We must receive comments on this AD by October 24, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com;* Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9070.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9070; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Gideon Jose, Aerospace Engineer, Systems and Equipment Branch, ACE–119A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5569; fax: 404–474–5606; email: *Gideon.Jose@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report of an incident involving a Model G–1159A (G–III) airplane. During approach, the right MLG failed to extend during normal or alternative extension procedures. We have determined that the MLG door actuator end cap fitting is subject to fatigue cracking, allowing for the depletion of the combined (left) and utility hydraulic system fluid and the nitrogen emergency blowdown system. This condition, if not corrected, could result in failure of the combined (left) hydraulic system (all phrases) to provide adequate hydraulic pressure and failure of the MLG to extend when commanded. We are issuing this AD to correct the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

We reviewed the following temporary revisions (TRs), which provide procedures for replacing MLG door actuator end cap fittings, and establish life limits for the end cap fittings.

- Gulfstream G300 Maintenance Manual, TR 32–2, dated April 29, 2016.
- Gulfstream G300 Maintenance Manual, TR 5–3, dated April 29, 2016.
- Gulfstream G350 Maintenance Manual TR 32–1, dated April 22, 2016.
- Gulfstream G350 Maintenance Manual TR 5–2, dated April 22, 2016.
- Gulfstream G400 Maintenance Manual TR 32–2, dated April 29, 2016.
- Gulfstream G400 Maintenance Manual TR 5–3, dated April 29, 2016.
- Gulfstream G450 Maintenance Manual TR 32–1, dated April 22, 2016.
- Gulfstream G450 Maintenance Manual TR 5–2, dated April 22, 2016.
- Gulfstream G500 Maintenance Manual TR 32–1, dated May 20, 2016.
- Gulfstream G500 Maintenance Manual TR 5–3, dated May 20, 2016.
- Gulfstream G550 Maintenance Manual TR 32–1, dated May 20, 2016.
- Gulfstream G550 Maintenance Manual TR 5–3, dated May 20, 2016.
- Gulfstream II Maintenance Manual TR 32–1, dated April 15, 2016.
- Gulfstream II Maintenance Manual TR 5–3, dated April 15, 2016.
- Gulfstream IIB Maintenance Manual TR 32–3, dated April 15, 2016.
- Gulfstream IIB Maintenance Manual TR 5–3, dated April 15, 2016.
- Gulfstream III Maintenance Manual TR 32–1, dated April 15, 2016.
- Gulfstream III Maintenance Manual TR 5–2, dated April 15, 2016.
- Gulfstream IV Maintenance Manual TR 32–2, dated April 29, 2016.
- Gulfstream IV Maintenance Manual TR 5–7, dated April 29, 2016.
- Gulfstream V Maintenance Manual TR 32–2, dated May 20, 2016.
- Gulfstream V Maintenance Manual TR 5–3, dated May 20, 2016.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires repetitively replacing the MLG door actuator end cap fittings and revising the maintenance or inspection program, as applicable, to establish life limits for MLG door actuator end cap fittings.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because fatigue cracking of the MLG door actuator end cap fitting could result in depletion of the combined (left) and utility hydraulic system fluid and the nitrogen emergency blowdown system, failure of the combined (left) hydraulic system (all phrases) to provide adequate hydraulic pressure, and failure of the MLG to extend when commanded. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2016–9070 and Directorate Identifier 2016–NM–118–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 1,409 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost ($)	Cost per product ($)	Cost on U.S. operators ($)
Replacement	37 work-hours × $85 per hour = $3,145	$698	$3,843	$5,414,787
Maintenance/inspection program revision	1 work-hour × $85 per hour = $85	0	85	119,765

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs" describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–18–11 Gulfstream Aerospace Corporation: Amendment 39–18642; Docket No. FAA–2016–9070; Directorate Identifier 2016–NM–118–AD.

(a) Effective Date

This AD is effective September 23, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Gulfstream Aerospace Corporation airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(7) of this AD.

(1) All Model G–1159 airplanes.

(2) All Model G–1159A airplanes.

(3) All Model G–1159B airplanes.

(4) All Model G–IV airplanes.

(5) All Model GV airplanes.

(6) Model GIV–X airplanes, serial numbers 4001 through 4350 inclusive.

(7) Model GV–SP airplanes, serial numbers 5001 through 5542 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a report that the right main landing gear (MLG) failed to extend due to fatigue cracking of the end cap fitting. We are issuing this AD to prevent such cracking, which could result in depletion of the combined (left) and utility hydraulic system fluid and the nitrogen emergency blowdown system, failure of the combined (left) hydraulic system (all phrases) to provide adequate hydraulic pressure, and failure of the MLG to extend when commanded.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) MLG Actuator End Cap Fitting Replacement

Before the accumulation of 9,500 total landings on the MLG actuator end cap fitting, or within 90 days after the effective date of this AD, whichever occurs later: Replace the end cap fitting, in accordance with the applicable temporary revision (TR) identified in paragraphs (g)(1) through (g)(11) of this AD. For airplanes on which the number of total accumulated landings since new cannot be determined, do the replacement within 90 days after the effective date of this AD.

(1) Gulfstream IIB Maintenance Manual TR 32–3, dated April 15, 2016.

(2) Gulfstream IV Maintenance Manual TR 32–2, dated April 29, 2016.

(3) Gulfstream G300 Maintenance Manual TR 32–2, dated April 29, 2016.

(4) Gulfstream G400 Maintenance Manual TR 32–2, dated April 29, 2016.

(5) Gulfstream G350 Maintenance Manual TR 32–1, dated April 22, 2016.

(6) Gulfstream G450 Maintenance Manual TR 32–1, dated April 22, 2016.

(7) Gulfstream G500 Maintenance Manual TR 32–1, dated May 20, 2016.

(8) Gulfstream G550 Maintenance Manual TR 32–1, dated May 20, 2016.

(9) Gulfstream V Maintenance Manual TR 32–2, dated May 20, 2016.

(10) Gulfstream II Maintenance Manual TR 32–1, dated April 15, 2016.

(11) Gulfstream III Maintenance Manual TR 32–1, dated April 15, 2016.

(h) Revision of Maintenance/Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information for the part number 1159HM20178 MLG actuator end cap fitting in the applicable TR identified in paragraphs (h)(1) through (h)(11) of this AD. The initial compliance time to replace the MLG actuator end cap fitting, as specified in the TR, is before the accumulation of 9,500 total landings on the end cap fitting, or within 90 days after the effective date of this AD, whichever occurs later.

(1) Gulfstream IIB Maintenance Manual TR 5–3, dated April 15, 2016.

(2) Gulfstream IV Maintenance Manual TR 5–7, dated April 29, 2016.

(3) Gulfstream G300 Maintenance Manual TR 5–3, dated April 29, 2016.

(4) Gulfstream G400 Maintenance Manual TR 5–3, dated April 29, 2016.

(5) Gulfstream G350 Maintenance Manual TR 5–2, dated April 22, 2016.

(6) Gulfstream G450 Maintenance Manual TR 5–2, dated April 22, 2016.

(7) Gulfstream G500 Maintenance Manual TR 5–3, dated May 20, 2016.

(8) Gulfstream G550 Maintenance Manual TR 5–3, dated May 20, 2016.

(9) Gulfstream V Maintenance Manual TR 5–3, dated May 20, 2016.

(10) Gulfstream II Maintenance Manual TR 5–3, dated April 15, 2016.

(11) Gulfstream III Maintenance Manual TR 5–2, dated April 15, 2016.

(i) No Alternative Actions and Intervals

After the maintenance or inspection program has been revised as required by paragraph (h) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) of this AD.

(j) Special Flight Permit

A special flight permit may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane, for one flight only, to a location where the MLG actuator end cap fitting can be replaced, as required by paragraph (g) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14

CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

For more information about this AD, contact Gideon Jose, Aerospace Engineer, Systems and Equipment Branch, ACE–119A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5569; fax: 404–474–5606; email: *Gideon.Jose@faa.gov.*

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Gulfstream G300 Maintenance Manual Temporary Revision (TR) 32–2, dated April 29, 2016.

(ii) Gulfstream G300 Maintenance Manual TR 5–3, dated April 29, 2016.

(iii) Gulfstream G350 Maintenance Manual TR 32–1, dated April 22, 2016.

(iv) Gulfstream G350 Maintenance Manual TR 5–2, dated April 22, 2016.

(v) Gulfstream G400 Maintenance Manual TR 32–2, dated April 29, 2016.

(vi) Gulfstream G400 Maintenance Manual TR 5–3, dated April 29, 2016.

(vii) Gulfstream G450 Maintenance Manual TR 32–1, dated April 22, 2016.

(viii) Gulfstream G450 Maintenance Manual TR 5–2, dated April 22, 2016.

(ix) Gulfstream G500 Maintenance Manual TR 32–1, dated May 20, 2016.

(x) Gulfstream G500 Maintenance Manual TR 5–3, dated May 20, 2016.

(xi) Gulfstream G550 Maintenance Manual TR 32–1, dated May 20, 2016.

(xii) Gulfstream G550 Maintenance Manual TR 5–3, dated May 20, 2016.

(xiii) Gulfstream II Maintenance Manual TR 32–1, dated April 15, 2016.

(xiv) Gulfstream II Maintenance Manual TR 5–3, dated April 15, 2016.

(xv) Gulfstream IIB Maintenance Manual TR 32–3, dated April 15, 2016.

(xvi) Gulfstream IIB Maintenance Manual TR 5–3, dated April 15, 2016.

(xvii) Gulfstream III Maintenance Manual TR 32–1, dated April 15, 2016.

(xviii) Gulfstream III Maintenance Manual TR 5–2, dated April 15, 2016.

(xix) Gulfstream IV Maintenance Manual TR 32–2, dated April 29, 2016.

(xx) Gulfstream IV Maintenance Manual TR 5–7, dated April 29, 2016.

(xxi) Gulfstream V Maintenance Manual TR 32–2, dated May 20, 2016.

(xxii) Gulfstream V Maintenance Manual TR 5–3, dated May 20, 2016.

(3) For Gulfstream service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com;* Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21155 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6671; Directorate Identifier 2015–NM–164–AD; Amendment 39–18643; AD 2016–18–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A300 B4–203 and A300 B4–2C airplanes. This AD was prompted by cracks found on pylon side panels (upper section) at rib 8. This AD requires a detailed inspection for crack indications of the pylon side panels; a high frequency eddy current (HFEC) inspection to confirm any crack indications; and repair of any cracking, or modification of the pylon side panels, and repetitive inspections and repair if necessary. We are issuing this AD to detect and correct cracking of the pylon side panels. Such cracking could result in pylon structural failure and in-flight loss of an engine.

DATES: This AD is effective October 13, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 13, 2016.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6671.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6671; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM 116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A300 B4–203 and A300 B4–2C airplanes. The NPRM published in the **Federal Register** on May 23, 2016 (81 FR 32256) (“the NPRM”). The NPRM was prompted by cracks found on pylon side panels (upper section) at rib 8. The NPRM proposed to require a detailed inspection for crack indications of the pylon side panels; an HFEC inspection to confirm any crack indications; and repair of any cracking, or modification of the pylon side panels, and repetitive inspections and repair if necessary. We are issuing this AD to detect and correct cracking of the pylon side panels. Such cracking could result in pylon structural failure and in-flight loss of an engine.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0201, dated October 7, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Model A300 B4–203 and A300 B4–2C airplanes. The MCAI states:

> Cracks were found on pylon side panels (upper section) at rib 8 on Airbus A300, A310 and A300–600 aeroplanes equipped with General Electric engines. Investigation of these findings indicated that this problem was likely to also affect aeroplanes of this type design with other engine installations.
>
> This condition, if not detected and corrected, could lead to reduced strength of the pylon primary structure, possibly resulting in pylon structural failure and in-flight loss of an engine.
>
> Prompted by these findings, EASA issued AD 2008–0181 [which corresponded to FAA AD 2010–06–04, Amendment 39–16228 (75 FR 11428, March 11, 2010; corrected May 4, 2010 (75 FR 23572))] to require repetitive detailed visual inspections and, depending on aeroplane configuration and/or findings, the accomplishment of applicable corrective action(s).
>
> Since that [EASA] AD 2008–0181 was issued, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed in order to substantiate the second A300–600 Extended Service Goal (ESG2) exercise. The results of these analyses have shown that the risk for these aeroplanes is higher than initially determined and consequently, the threshold and interval were reduced to allow timely detection of these cracks and the accomplishment of applicable corrective action(s).
>
> Consequently, EASA AD 2013–0136 was published to supersede EASA AD 2008–0181 and to require the inspections to be accomplished within reduced thresholds and intervals. Afterwards, [EASA] AD 2013–0136 was mistakenly revised [EASA AD 2013–0136R1 corresponds to FAA AD 2015–26–06, Amendment 39–18354 (81 FR 1870 January 14, 2016)] to reduce the Applicability, because it was considered at the time that aeroplanes on which Airbus mod 03599 was embodied, were not concerned by the requirements of EASA AD 2013–0136.
>
> Since EASA AD 2013–0136R1 was issued, a more thorough analysis determined that post-mod 03599 aeroplanes could be affected by this unsafe condition after all.
>
> [During] further deeper review, a list of nineteen A300 aeroplanes was identified as missing in the [EASA] AD 2013–0136R1 applicability (aeroplanes post-mod 03599).
>
> For the reasons described above this AD retains the requirements of EASA AD 2013–0136R1 and mandates these requirements for the 19 missing A300 aeroplanes MSNs [manufacturer serial numbers].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6671.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A300–54–0075, Revision 04, dated May 26, 2015. The service information describes procedures for an inspection for crack indications of the pylons, a HFEC inspection to confirm cracking, modification of the pylon side panels, and repair if necessary.

Airbus has also issued Service Bulletin A300–54–0081, dated August 11, 1993. This service information describes installation of a doubler on the left pylon 1 and right pylon 2, on pylon side panels (upper section) at Rib 8.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 4 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Inspection of the pylon side panels	30 work-hours × $85 per hour = $2,550 per inspection cycle.	$2,550 per inspection cycle	$10,200 per inspection cycle.

We estimate the following costs to do any necessary repairs that would be required based on the results of the inspection. We have no way of determining the number of airplanes that might need this repair.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Crack repair	56 work-hours × $85 per hour = $4,760 per repair.	$3,910 per repair	$8,670 per repair.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–18–12 Airbus: Amendment 39–18643; Docket No. FAA–2016–6671; Directorate Identifier 2015–NM–164–AD.

(a) Effective Date

This AD is effective October 13, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B4–203 and A300 B4–2C airplanes, certificated in any category, manufacturer serial numbers 210, 212, 218, 220, 227, 234, 235, 236, 239, 247, 255, 256, 259, 261, 274, 277, 292, 299, and 302.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

(e) Reason

This AD was prompted by cracks found on pylon side panels (upper section) at rib 8. We are issuing this AD to detect and correct cracking of the pylon side panels. Such cracking could result in pylon structural failure and in-flight loss of an engine.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Detailed Inspection of Pylons and Corrections

At the applicable time specified in Airbus Service Bulletin A300–54–0075, Revision 04, dated May 26, 2015: Do a detailed inspection for crack indications of the pylons 1 and 2 side panels (upper section) at rib 8, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–54–0075, Revision 04, dated May 26, 2015.

(h) Crack Confirmation

If any crack indication is found during the inspection required by paragraph (g) of this AD: Before further flight, do a high frequency eddy current (HFEC) inspection to confirm the crack, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–54–0075, Revision 04, dated May 26, 2015.

(i) Follow-on Actions for No Crack/Indication

If the inspection required by paragraph (g) of this AD reveals no crack indication, or if the HFEC inspection specified by paragraph (h) of this AD confirms no crack: Do the actions specified in either paragraph (i)(1) or (i)(2) of this AD.

(1) Repeat the inspection required by paragraph (g) of this AD at the applicable time specified in Airbus Service Bulletin A300–54–0075, Revision 04, dated May 26, 2015.

(2) At the applicable time specified in Airbus Service Bulletin A300–54–0081, dated August 11, 1993: Modify the pylons, in accordance with Airbus Service Bulletin A300–54–0081, dated August 11, 1993. Thereafter, repeat the HFEC inspection specified in paragraph (h) of this AD at the applicable interval specified in Airbus Service Bulletin A300–54–0075, Revision 04, dated May 26, 2015, and repair any crack before further flight using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(j) Follow-on Actions for Crack Findings

If any crack is confirmed during the inspection required by paragraph (h) of this AD, repair before further flight using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g), (h), (i), and (j) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (k)(1) through (k)(4) of this AD.

(1) Airbus Service Bulletin A300–54–0075, dated August 11, 1993, which was incorporated by referenced in AD 2010–06–04, Amendment 39–16228 (75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572).

(2) Airbus Service Bulletin A300–54–0075, Revision 01, dated November 9, 2007.

(3) Airbus Service Bulletin A300–54–0075, Revision 02, dated June 26, 2008.

(4) Airbus Service Bulletin A300–54–0075, Revision 03, dated March 27, 2013.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0201, dated October 7, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6671.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraph (n)(3) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A300–54–0075, Revision 04, dated May 26, 2015.

(ii) Airbus Service Bulletin A300–54–0081, dated August 11, 1993.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 25, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21283 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–5814; Directorate Identifier 2014–NM–247–AD; Amendment 39–18639; AD 2016–18–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A318, A319, and A320 series airplanes. This AD was prompted by reports of chafing damage on the fuselage skin at the bottom of certain frames, underneath the fairing structure. This AD requires repetitive detailed inspections for damage on the fuselage skin at certain frames, and applicable related investigative and corrective actions. We are issuing this AD to detect and correct damage to the fuselage skin, which could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage.

DATES: This AD is effective October 13, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 13, 2016.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–5814.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–5814; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A318, A319, and A320 series airplanes. The NPRM published in the **Federal Register** on November 27, 2015 (80 FR 74045) (“the NPRM”).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2014–0259, dated December 5, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus Model A318, A319, and A320 series airplanes. The MCAI states:

> An operator reported finding chafing damage on the fuselage skin at the bottom of frame (FR) 34 junction between stringer (STR) 43 left hand (LH) side and right hand (RH) side on several aeroplanes, underneath the fairing structure.
>
> After investigation, a contact between the fairing nut plate and the fuselage was identified, causing damage to the fuselage.
>
> This condition, if not detected and corrected, could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage.
>
> For the reason described above, this [EASA] AD requires repetitive detailed inspections (DET) of the fuselage [for chafing] at FR 34 and provides an optional terminating action [modification of the belly fairing] to the repetitive inspections required by this [EASA] AD.

Related investigative actions include a special detailed inspection of external fuselage skin panel for any cracking, and measurement of crack length and remaining thickness. Corrective actions include repair or modification of the fuselage skin panel. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–5814.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Use Latest Service Information

Airbus requested that we revise paragraph (i) of the NPRM to add Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015.

United Airlines also requested that we revise paragraph (i) of the NPRM to add Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015, and provide credit for Airbus Service Bulletin A320–53–1281, Revision 01, dated December 1, 2014. United Airlines explained that Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015, includes numerous configuration additions.

For the reasons stated by the commenter, we agree to revise this AD to include Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015. Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015, includes, among other things, configuration changes, new configurations, and revision of the Manufacturer Serial Numbers (MSNs), but adds no new actions. We also included Airbus Service Bulletin A320–53–1281, Revision 01, dated December 1, 2014, in paragraph (j) of this AD, as credit for certain actions performed before the effective date of this AD.

Request To Allow Use of Any Airbus-Approved Corrective Action

Airbus requested that we revise the NPRM to add a paragraph that allows for any corrective action provided by Airbus. Airbus stated that in case of deviation during service information embodiment, the only solution to cover the deviation for the customer is to ask for an alternative method of compliance (AMOC). Airbus included the following example, which allows any corrective action provided by Airbus:

> If, during modification of an aeroplane as required by paragraph (1) of this AD, a difference (see Note) is detected which makes the accomplishment of a part of the modification instructions impossible, before next flight, contact Airbus for approved instructions and accomplish those instructions accordingly, including follow-on action(s), as applicable.
>
> Note: For the purpose of this AD, the detected difference can be either:
>
> (a) a necessary design deviation due to production related concessions that directly affect the sensitive area of the modification;
>
> (b) an obvious typographical error in the SB instructions; or
>
> (c) an aircraft configuration not (yet) included in/addressed by the SB instructions.

We disagree to add a paragraph that allows for any corrective action provided by Airbus, because CFR 39.19 requires approval of an AMOC for an alternative method to mitigate the risk associated with the unsafe condition addressed in an AD. The FAA uses its discretion in determining actions within the provision of an AMOC. We have made no changes to this AD in this regard.

Request To Clarify Steps Required for Compliance

United Airlines requested that we revise the NPRM to clarify that the actions that are required for compliance (RC) are limited to the steps in paragraphs 3.C. and 3.D. of Airbus Service Bulletin A320–53–1287, dated July 29, 2014; Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015; and Airbus Service Bulletin A320–53–1281, Revision 01, dated December 1, 2014. The commenter noted that paragraph 3.D. contains no test requirements.

We agree with the request, although, as the commenter noted, paragraph 3.D. of the referenced service information does not include any test requirements. We have therefore revised paragraphs (g) and (i) of this AD to limit the requirements to paragraph 3.C., "Procedure," of the service information.

Request for Clarification of Compliance Methods and Intervals

United Airlines requested that we clarify whether the inspections specified in the NPRM and Airbus Service Bulletin A320–53–1287, dated July 29, 2014, override the inspection methods and intervals defined in structures repair manual (SRM) 53–21–11 PB 101, and whether the terminating action in paragraph (i) of the proposed AD terminates the inspections in SRM 53–21–11 PB 101 following rework. The commenter stated that SRM 53–21–11 PB 101 defines different inspection methods, threshold, and repetitive intervals.

We agree that clarification is necessary. We recognize that there may be a conflict between the inspections specified in this AD and SRM 53–21–11 PB 101. The requirements of this AD were developed to address a known unsafe condition and prevail over the actions of previously developed service information provided by a manufacturer. We have made no changes to this AD in this regard.

Request for Clarification of Limit

United Airlines requested that we revise paragraph (g)(3) of the proposed AD to clarify the "limits" of detected damage. Paragraph (g)(3) of the proposed AD refers to damage that exceeds the limits defined in Airbus Service Bulletin A320–53–1287, dated July 29, 2014. United Airlines noted that this limit relates to the remaining skin thickness as defined by SRM 53–21–11 PB 101, but the meaning of "remaining thickness out of limits" is inconclusive. United Airlines stated that the remaining skin thickness following a blend out could become a Category 'B' repair with subsequent inspections or a Category 'C' repair, eventually requiring doubler repair. United Airlines stated that Airbus Service Bulletin A320–53–1287, dated July 29, 2014, does not give instructions to accomplish a doubler repair if the remaining thickness is within SRM 53–21–11 PB 101 limits. United Airlines stated that it would not be wise to install an external doubler (unless necessary) if the remaining skin thickness is "within limits." The commenter therefore proposed that we clarify the "limit" as an allowable rework (blend out) that does not require repair (doubler installation).

We agree that clarification is necessary. If Subtask 531287–832–002–001 of Airbus Service Bulletin A320–53–1287, dated July 29, 2014, is performed, and no crack is found, and the measurement of the remaining thickness of fuselage skin exceeds certain limits, then Airbus Service Bulletin A320–53–1287, dated July 29, 2014, specifies contacting Airbus for repair instructions. The corresponding requirement in paragraph (g)(3) of this AD, requires that those repairs be done using a method approved by the FAA, EASA, or Airbus's EASA Design Organization Approval. Repair instructions are established based on the inspection results shared with Airbus, which may vary on a case-by-case basis. We have made no changes to this final rule in this regard.

Request for Inclusion of Previously Repaired Area in Inspection

United Airlines requested that we revise paragraph (g)(1) of the proposed AD to include damage on the "fuselage skin or skin repair (if present)" for the required detailed inspection. United Airlines explained that it experienced several issues of skin chafing prior to the release of Airbus Service Bulletin A320–53–1287, dated July 29, 2014; as a result, some airplanes have needed doubler repairs due to skin wear beyond remaining thickness allowed. The commenter stated that because repairs may be present, it will not be possible to inspect the skin in the chafing area.

For the reasons stated by the commenter, we agree to include previously repaired areas for the inspection required by paragraph (g)(1) of this AD. We have revised paragraph (g)(1) of this AD accordingly.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015; and Airbus Service Bulletin A320–53–1287, dated July 29, 2014. The service information describes procedures for a detailed inspection for damage (including chafing marks) on the fuselage skin at FR 34 between STR 43 LH and RH sides, and applicable related investigative and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 642 airplanes of U.S. registry.

We also estimate that it would take about 12 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $90 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $712,620, or $1,110 per product.

In addition, we estimate that any necessary follow-on actions would take about 21 work-hours and require parts costing $3,550, for a cost of $5,335 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

AD 2016–18–09 Airbus: Amendment 39–18639; Docket No. FAA–2015–5814; Directorate Identifier 2014–NM–247–AD.

(a) Effective Date

This AD is effective October 13, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, all manufacturer serial numbers, except those on which Airbus Modification 37878 has been embodied in production, or Airbus Service Bulletin A320–53–1281 has been done in service.

(1) Airbus Model A318–111, –112, –121, and –122 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of chafing damage on the fuselage skin at the bottom of certain frames, underneath the fairing structure. We are issuing this AD to detect and correct damage to the fuselage skin, which could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspection and Corrective Action

(1) Within the compliance times identified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD, whichever occurs later, do a detailed inspection for damage (including chafing marks) on the fuselage skin, including previously repaired areas, at frame (FR) 34 between stringer (STR) 43 on the left-hand and right-hand sides, in accordance with paragraph 3.C., "Procedure," of Airbus Service Bulletin A320–53–1287, dated July 29, 2014. Repeat the inspection thereafter at intervals not to exceed 12,000 flight cycles or 24,000 flight hours, whichever occurs first.

(i) Before exceeding 12,000 flight cycles or 24,000 flight hours, whichever occurs first since the airplane's first flight.

(ii) Within 5,000 flight cycles or 10,000 flight hours, whichever occurs first after the effective date of this AD.

(2) If any damage is detected during any inspection required by paragraph (g)(1) of this AD, before further flight, do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1287, dated July 29, 2014, except as required by paragraph (g)(3) of this AD.

(3) If any cracking is found during any related investigative action required by paragraph (g)(2) of this AD, or if any damage detected during the inspection required by paragraph (g)(1) of this AD exceeds the limits defined in the Accomplishment Instructions of Airbus Service Bulletin A320–53–1287, dated July 29, 2014, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(h) Non-Terminating Repair Action

Accomplishment of a repair on an airplane as required by paragraphs (g)(2) and (g)(3) of this AD, does not constitute terminating action for the repetitive detailed inspections required by paragraph (g)(1) of this AD, unless the approved repair indicates otherwise.

(i) Terminating Action for the Repetitive Detailed Inspections

Modification of the belly fairing on any airplane in accordance with paragraph 3.C., "Procedure," of Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015, constitutes terminating action for the repetitive detailed inspections required by paragraph (g)(1) of this AD for that airplane.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–53–1281, dated July 29, 2014; or Airbus Service Bulletin A320–53–1281, Revision 01, dated December 1, 2014. This service information is not incorporated by reference in this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0259, dated December 5, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–5814.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (m)(4) of this AD.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A320–53–1281, Revision 02, including Appendix 01, dated October 9, 2015.

(ii) Airbus Service Bulletin A320–53–1287, dated July 29, 2014.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21144 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6668; Directorate Identifier 2014–NM–149–AD; Amendment 39–18627; AD 2016–17–14]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Type Certificate Previously Held by Saab AB, Saab Aerosystems) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. This AD was prompted by a report that on some airplanes, during the paint removal process for repainting the airplane, the basic corrosion protection (anodizing and primer) coating was sanded down to bare metal on the aluminum skin panels, and the bare metal might not have been treated correctly for corrosion prevention. This AD requires an inspection of structural components of the airplane for any damaged protective coating; inspections of those areas for pitting corrosion, if necessary; a thickness measurement to determine if there is reduced skin thickness, if necessary; and repair, if necessary. We are issuing this AD to detect and correct damaged protective coatings. This condition could result in pitting corrosion damage; and reduced metal thickness, which could result in reduced static and fatigue strength of the airplane's structural parts.

DATES: This AD is effective October 13, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 13, 2016.

ADDRESSES: For service information identified in this final rule, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6668.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6668; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace

Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. The NPRM published in the **Federal Register** on May 13, 2016 (81 FR 29807) ("the NPRM"). The NPRM was prompted by a report that on some airplanes, during the paint removal process for repainting the airplane, the basic corrosion protection (anodizing and primer) coating was sanded down to bare metal on the aluminum skin panels, and the bare metal might not have been treated correctly for corrosion prevention. The NPRM proposed to require an inspection of structural components of the airplane for any damaged protective coating; inspections of those areas for pitting corrosion, if necessary; a thickness measurement to determine if there is reduced skin thickness, if necessary; and repair, if necessary. We are issuing this AD to detect and correct damaged protective coatings. This condition could result in pitting corrosion damage; and reduced metal thickness, which could result in reduced static and fatigue strength of the airplane's structural parts.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0160, dated July 9, 2014 (Correction: July 9, 2014) (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. The MCAI states:

> SAAB received evidence that on a number of SAAB 2000 aeroplanes, during paint removal before repainting, the basic corrosion protection anodizing and primer were removed. In these cases, the basic corrosion protection coating was sanded down to bare metal on the aluminium [aluminum] skin panel in spite of existing instruction(s) contained in the Structural Repair Manual (SRM) which prohibit(s) exposing the aluminium bare metal. Due to the fact that the skin panels are manufactured from aluminium without a protective covering (unclad), the anodizing and primer is the corner stone of the aeroplane corrosion protection system. If the anodizing and primer is removed and the aluminium surface is not correctly treated, pitting corrosion may occur. In addition, sanding to bare metal can inadvertently lead to metal removal and subsequently reduce the static and fatigue strength of the aeroplane structural parts.
>
> This condition, if not detected and corrected, could result in corrosion damage and/or reduced structural strength of the aeroplane structure.
>
> To address this potential unsafe condition, SAAB issued SB 2000–51–002 to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires a one-time [detailed] inspection [for damage] * * * of required anticorrosion protective coating [*e.g.*, bonding primer], [detailed] inspection for pitting corrosion (if necessary) [, a dye penetrant inspection for pitting corrosion (if necessary)] and measure the skin thickness (if necessary) [to determine if there is reduced skin thickness] and, depending on findings, corrective action(s) [*e.g.*, repair].
>
> This [EASA] AD is re-issued to correct typographical error of the effective date.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6668.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

We reviewed Saab Service Bulletin 2000–51–002, Revision 01, dated May 23, 2014. This service information describes procedures for an inspection of structural components of the airplane for any damaged protective coating; inspections of those areas for pitting corrosion; a thickness measurement to determine if there is reduced skin thickness; and repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 8 airplanes of U.S. registry.

We also estimate that it takes about 20 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $13,600, or $1,700 per product.

In addition, we estimate that any necessary follow-on actions will take about 45 work-hours, for a cost of $3,825 per product. We have no way of determining the number of aircraft that might need these actions. We have received no definitive data that will enable us to provide cost estimates for the parts cost of the follow-on actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–17–14 Saab AB, Saab Aeronautics (Type Certificate previously held by Saab AB, Saab Aerosystems): Amendment 39–18627; Docket No. FAA–2016–6668; Directorate Identifier 2014–NM–149–AD.

(a) Effective Date

This AD is effective October 13, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics (Type Certificate previously held by Saab AB, Saab Aerosystems) Model SAAB 2000 airplanes, certificated in any category, all manufacturer serial numbers, excluding the airplanes specified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Those airplanes identified in Table 1 of Saab Service Bulletin 2000–51–002, Revision 01, dated May 23, 2014, on which an applicable "Related Statement" identified in Table 1 was accomplished.

(2) Those airplanes that either have retained the original paint or have been repainted by Saab AB, Saab Aeronautics.

(d) Subject

Air Transport Association (ATA) of America Code 51, Standard Practices/Structures.

(e) Reason

This AD was prompted by a report that on some airplanes, during the paint removal process for repainting the airplane, the basic corrosion protection (anodizing and primer) coating was sanded down to bare metal on the aluminum skin panels, and the bare metal might not have been treated correctly for corrosion prevention. We are issuing this AD to detect and correct damaged protective coatings. This condition could result in pitting corrosion damage; and reduced metal thickness, which could result in reduced static and fatigue strength of the airplane's structural parts.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection, Related Investigative Actions, and Corrective Action

(1) Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first: Do a detailed inspection of the airplane structural parts to detect damaged protective coating (*e.g.*, bonding primer), in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–51–002, Revision 01, dated May 23, 2014. If any damaged protective coating is found, before further flight, do a detailed inspection of the airplane structural parts to detect pitting corrosion and, if no pitting corrosion is found, do a dye penetrant inspection of the airplane structural parts to detect pitting corrosion and a thickness measurement to determine if there is reduced skin thickness, as applicable, in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–51–002, Revision 01, dated May 23, 2014.

(2) If, during any inspection required by paragraph (g)(1) of this AD, any damage (such as pitting corrosion or damaged primer) or reduced skin thickness is detected, as defined in Saab Service Bulletin 2000–51–002, Revision 01, dated May 23, 2014, before further flight, contact the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA) for a repair method, and do the repair within the compliance time indicated in those instructions.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Saab Service Bulletin 2000–51–002, dated April 9, 2014, which is not incorporated by reference in this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0160, dated July 9, 2014 (Correction: July 9, 2014), for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6668.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (k)(4) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Saab Service Bulletin 2000–51–002, Revision 01, dated May 23, 2014.

(ii) Reserved.

(3) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 18, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–20711 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8135; Directorate Identifier 2015–NM–106–AD; Amendment 39–18636; AD 2016–18–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767–200, –300, and –400ER series airplanes. This AD was prompted by multiple reports of uncommanded escape slide inflation. This AD requires modifying the escape slide regulator valves of the forward-entry door, forward-service door, aft-entry door, and aft-service door, and as applicable, modifying the escape slide regulator valves of the mid-entry door and mid-service door. We are issuing this AD to prevent out-of-tolerance trigger mechanism components (sector and sear) in the escape slide regulator valves, which can produce insufficient trigger engagement and reduced pull force values, possibly leading to uncommanded deployment of the slide during normal airplane maintenance or operation. This condition could result in injury to passengers and crew, damage to equipment, and the slide becoming unusable in an emergency evacuation.

DATES: This AD is effective October 13, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 13, 2016.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8135.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8135; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Caspar Wang, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6414; fax: 425–917–6590; email: *Caspar.Wang@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 767–200, –300, and –400ER series airplanes. The NPRM published in the **Federal Register** on January 4, 2016 (81 FR 24) ("the NPRM"). The NPRM was prompted by multiple reports of uncommanded escape slide inflation. The NPRM proposed to require modifying the escape slide regulator valves of the forward-entry door, forward-service door, aft-entry door, and aft-service door, and as applicable, modifying the escape slide regulator valves of the mid-entry door and mid-service door. We are issuing this AD to prevent out-of-tolerance trigger mechanism components (sector and sear) in the escape slide regulator valves, which can produce insufficient trigger engagement and reduced pull force values, possibly leading to uncommanded deployment of the slide during normal airplane maintenance or operation. This condition could result in injury to passengers and crew, damage to equipment, and the slide becoming unusable in an emergency evacuation.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment. Air Astana, Air Line Pilots Association International (ALPA), and United Airlines supported the NPRM.

Request To Clarify Reference to the Escape Slide Regulator Valve

American Airlines (AAL) and Boeing requested that we clarify that the NPRM is applicable to the regulator valve associated with the escape slide assembly and not the slide door. The commenters pointed out that without clarification, the regulator valve could be misconstrued to be associated with the door system pressure cylinder assembly or the emergency power assist system (EPAS).

We agree to clarify the references to the escape slide regulator valve. We have revised the preamble in this final rule and paragraphs (e) and (g) of this AD to refer to the escape slide regulator valve.

Request To Revise Paragraph (g) of the Proposed AD

Air New Zealand (ANZ) requested that we revise paragraph (g) of the proposed AD or add an additional paragraph to clarify that operators are required only to modify escape slide regulator valves that have not been previously modified as specified in UTC Aerospace Systems Service Bulletin 130104–25–432 or 4A3939–25–434. ANZ stated that paragraph (g) of the proposed AD would require all escape slide regulator valves on affected airplanes to be removed and modified as specified in Boeing Special Attention Service Bulletin 767–25–0548, Revision 1, dated April 23, 2015. ANZ also pointed out that if before or during the accomplishment of the actions specified in Boeing Special Attention Service Bulletin 767–25–0548, Revision 1, dated April 23, 2015, a determination could be made (by reviewing records or checking the part markings on the girt bar) that some of the escape slide regulator valves are already modified, as specified in UTC Aerospace Systems Service Bulletin 130104–25–432; or Service Bulletin 4A3939–25–434, then no additional work should be required on the modified escape slide regulator valves.

We agree that escape slide regulator valves that have already been modified do not need to be removed and modified again. Boeing Service Bulletin 767–25–0548, dated November 5, 2014, included in paragraph (h) of this AD, references UTC Aerospace Systems Service Bulletin 130104–25–432; and Service Bulletin 4A3939–25–434 for the modification. As allowed by the phrase, "unless already done," in paragraph (f) of this AD, if the requirements of this

AD have already been accomplished, this AD does not require that those actions be repeated. Therefore, paragraph (g) this AD has not been changed in this regard.

Request To Reduce the Proposed Compliance Time

ALPA indicated its full support for the intent of the NPRM, but requested that we reduce the proposed 42-month compliance time for the modification of the escape slide regulator valves. ALPA pointed out that the risk of an uncommanded deployment is high and believes that the compliance time should be reduced in the interest of safety. ALPA provided no specific new compliance time.

We disagree with the request to reduce the 42-month compliance time. In developing an appropriate compliance time, we considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of modification of the escape slide regulator valves. Further, we arrived at the proposed compliance time with operator and manufacturer concurrence. Additionally, ALPA did not provide any additional data to support a shorter compliance time. In consideration of all of these factors, we determined that the compliance time, as proposed, represents an appropriate interval in which the escape slide regulator valves can be modified in a timely manner within the fleet, while still maintaining an adequate level of safety. Most ADs, including this one, permit operators to accomplish the requirements of an AD at a time earlier than the specified compliance time; therefore, an operator may choose to modify the escape slide regulator valves before the 42-month compliance time. If additional data are presented that would justify a shorter compliance time, we may consider further rulemaking on this issue. We have not changed this AD in this regard.

Request To Revise References in Certain Service Information

AAL requested that we revise references included in UTC Aerospace Systems Service Bulletin 130104–25–432, dated August 11, 2014. AAL stated that UTC Aerospace Systems Service Bulletin 130104–25–432, dated August 11, 2014, contains internal references to the UTC Aerospace Systems Component Maintenance Manual (CMM) that are incorrect and reference an old revision of the UTC Aerospace Systems CMM with different paragraph references.

We agree that the references included in UTC Aerospace Systems Service Bulletin 130104–25–432, dated August 11, 2014, are incorrect. Since the specific references included in UTC Aerospace Systems Service Bulletin 130104–25–432, dated August 11, 2014, are not required for compliance with this AD, we have not changed the AD in this regard; however, we have identified this discrepancy to Boeing and UTC Aerospace Systems.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per STC ST01920SE does not affect the accomplishment of the manufacturer's service instructions.

We agree with the commenter that STC ST01920SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST01920SE does not affect the ability to accomplish the actions required by this AD. We have not changed this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 767–25–0548, Revision 1, dated April 23, 2015. The service information describes procedures for modifying the escape slide regulator valves of the forward-entry door, forward-service door, aft-entry door, aft-service door, mid-entry door, and mid-service door. The modification includes replacing the existing trigger mechanism sector and sear of the escape slide regulator valve with new trigger mechanism sector and sear. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 302 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement of trigger mechanism components—forward and aft-entry/service doors.	15 work-hours × $85 per hour = $1,275	$2,236	$3,511	$1,060,322
Replacement of trigger mechanism components—mid-entry/mid-service doors.	8 work-hours × $85 per hour = $680	1,118	1,798	542,996

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–18–06 The Boeing Company: Amendment 39–18636; Docket No. FAA–2015–8135; Directorate Identifier 2015–NM–106–AD.

(a) Effective Date

This AD is effective October 13, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, and –400ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 767–25–0548, Revision 1, dated April 23, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by multiple reports of uncommanded escape slide inflation. We are issuing this AD to prevent out-of-tolerance trigger mechanism components (sector and sear) in the escape slide regulator valves, which can produce insufficient trigger engagement and reduced pull force values, possibly leading to uncommanded deployment of the slide during normal airplane maintenance or operation. This condition could result in injury to passengers and crew, damage to equipment, and the slide becoming unusable in an emergency evacuation.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Replacement of the Trigger Mechanism Sector and Sear

Within 42 months after the effective date of this AD, modify the escape slide regulator valves of the forward-entry door, forward-service door, aft-entry door, and aft-service door, and as applicable, modify the escape slide regulator valves of the mid-entry door and mid-service door, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–25–0548, Revision 1, dated April 23, 2015.

(h) Credit for Previous Actions

This paragraph provides credit for the modification required by paragraph (g) of this AD, if the modification was performed before the effective date of this AD using Boeing Special Attention Service Bulletin 767–25–0548, dated November 5, 2014.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

(1) For more information about this AD, contact Caspar Wang, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6414; fax: 425–917–6590; email: *Caspar.Wang@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (k)(4) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Special Attention Service Bulletin 767–25–0548, Revision 1, dated April 23, 2015.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21152 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–7002; Airspace Docket No. 16–ACE–5]

Establishment of Class E Airspace; Jetmore, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace in Jetmore, KS. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures developed at Jetmore Municipal Airport, for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, November 10, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: (817) 222–5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Jetmore Municipal Airport, Jetmore, KS.

History

On June 16, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace extending upward from 700 feet above the surface at Jetmore Municipal Airport, Jetmore, KS (81 FR 39217) FAA–2016–7002. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Jetmore Municipal Airport, Jetmore, KS, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5(a). This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exists that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE KS E5 Jetmore, KS [New]

Jetmore Municipal Airport, KS
(Lat. 37°59′04″ N., long. 099°53′40″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Jetmore Municipal Airport.

Issued in Fort Worth, TX, on August 25, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–21224 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–6115; Airspace Docket No. 16–AGL–14]

Establishment of Class E Airspace; Lakota, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace in Lakota, ND. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures developed at Lakota Municipal Airport, for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, November 10, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Lakota Municipal Airport, Lakota, ND.

History

On June 8, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E Airspace extending upward from 700 feet above the surface at Lakota Municipal Airport, Lakota, ND (81 FR 36815) Docket No. FAA–2016–6115. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z dated August 6, 2016, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, airspace Designations and Reporting Points, dated August 6, 2016, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Lakota Municipal Airport, Lakota, ND, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2016, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exists that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2016, effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL ND E5 Lakota, ND [New]

Lakota Municipal Airport, ND

(Lat. 48°01′44″ N., long. 098°19′33″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Lakota Municipal Airport.

Issued in Fort Worth, TX, on August 25, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–21221 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 165

[USCBP–2016–0053; CBP Dec. No. 16–11]

RIN 1515–AE10

Investigation of Claims of Evasion of Antidumping and Countervailing Duties; Correction

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Interim final rule; correction.

SUMMARY: U.S. Customs and Border Protection (CBP) published an interim final rule on August 22, 2016, in the **Federal Register**, concerning investigation of claims of evasion of antidumping and countervailing duties. In accordance with section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, the rule amended the U.S. Customs and Border Protection regulations to set forth procedures for CBP to investigate claims of evasion of antidumping and countervailing duty orders. That document inadvertently omitted a comma in the definition of "evade or evasion." This document corrects the text in that definition.

DATES: This correction is effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Robert Altneu, Chief, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of Trade, at *robert.f.altneu@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION: On August 22, 2016, U.S. Customs and Border Protection (CBP) published in the **Federal Register** (81 FR 56477) an Interim Final Rule (CBP Dec. 16–11) document, entitled "Investigation of Claims of Evasion of Antidumping and Countervailing Duties." As published, the interim final regulation contains an error in the text of the definition of "evade or evasion" in § 165.1. The definition should be the same as the statutory definition found in section 421 of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 1517(a)(5)), but a comma was inadvertently omitted.

The effective date for the interim final rule (CBP Dec. 16–11), published August 22, 2016 (81 FR 56477), remains August 22, 2016. Written comments must be submitted on or before October 21, 2016.

List of Subjects in 19 CFR Part 165

Administrative practice and procedure, Business and industry, Customs duties and inspection.

For reasons stated in the preamble, 19 CFR part 165 is amended by making the following correcting amendment:

PART 165—INVESTIGATION OF CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1508, 1517 (as added by Pub. L. 114–125, 130 Stat. 122,155 (19 U.S.C. 4301 note)), 1623, 1624, 1671, 1673.

§ 165.1 [Amended]

■ 2. In § 165.1, in the definition of "Evade or evasion", remove the phrase "or any omission that is material and that results in any cash deposit" and add in its place the phrase "or any omission that is material, and that results in any cash deposit".

Harold M. Singer,

Director, Regulations and Disclosure Law Division, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection.

Approved: September 2, 2016.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2016–21582 Filed 9–7–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 20, 25, 170, 184, 186, and 570

[Docket No. FDA–1997–N–0020 (Formerly 97N–0103)]

RIN 0910–AH15

Substances Generally Recognized as Safe

Correction

In rule document 2016–19164 appearing on pages 54959–55055 in the issue of Wednesday, August 17, 2016, make the following correction:

On page 54960, in the first column, the **DATES** section, beginning in the fourth line, "October 17, 2016" should read "September 16, 2016".

[FR Doc. C1–2016–19164 Filed 9–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Parts 120, 125, 126, and 130

[Public Notice: 9672]

RIN 1400–AD70

International Traffic in Arms: Revisions to Definition of Export and Related Definitions

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: On June 3, 2016, the Department of State published an interim final rule amending and adding definitions to the International Traffic in Arms Regulations (ITAR) as part of the President's Export Control Reform (ECR) initiative. After review of the public comments to the interim final rule, the Department further amends the ITAR by revising the definition of "retransfer" and making other clarifying revisions.

DATES: The rule is effective on September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–1282; email *DDTCResponseTeam@state.gov.* ATTN: ITAR Amendment—Revisions to Definitions.

SUPPLEMENTARY INFORMATION: The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130). On June 3, 2015, the Department of State published a rule (80 FR 31525) proposing to amend the International Traffic in Arms Regulations (ITAR) by revising key definitions, creating several new definitions, and revising related provisions, as part of the President's Export Control Reform (ECR) initiative. After review of the public comments on the proposed rule, the Department published an interim final rule (81 FR 35611, June 3, 2016) implementing several of the proposed revisions and additions, with an additional comment period until July 5, 2016. After reviewing the public comments to the interim final rule, the Department further amends the ITAR by revising the definition of "retransfer" in § 120.51, adding a new paragraph (f) to § 125.1, revising § 126.16(a)(1)(iii) and § 126.17(a)(1)(iii), revising § 126.18(d)(1), and revising § 130.2.

Changes in This Rule

The following changes are made to the ITAR with this final rule: (i) Revisions to the definition of "retransfer" in § 120.51 to clarify that temporary transfers to third parties and releases to same-country foreign persons are within the scope of the definitions; (ii) addition of a new paragraph (f) in § 125.1 to mirror the new sections of the ITAR in §§ 123.28 and 124.1(e) detailing the scope of licenses; (iii) revising § 126.16(a)(1)(iii) and § 126.17(a)(1)(iii) to reflect the definitions of reexport and retransfer in the Defense Trade Cooperation Treaties with Australia and the United Kingdom, respectively, and to make appropriate revisions to the definitions of reexport in § 120.19 and retransfer in § 120.51 to reflect that these definitions do not apply in the treaty context; (iv) revisions to § 126.18(d)(1) to clarify that the provisions include all foreign persons who meet the definition of regular employee in § 120.39; and (v) revisions to § 130.2 to ensure that the scope of the Part 130 requirements does not change due to the revised and new definitions. The remaining definitions published in the June 3, 2015 proposed rule (80 FR 31525) and not addressed in the June 3, 2016 interim final rule or this final rule, will be the subject of separate rulemakings and the public comments on those definitions will be addressed therein.

Response to Public Comments

One commenter stated that § 120.17 (a)(1) is ambiguous and could lead to misinterpretation as to whether the transfer of a defense article to a foreign person within the United States would be considered an export. The Department notes that a transfer of a defense article to a foreign person in the United States is not an export, unless it results in a release of technical data under § 120.17(a)(2), is a defense article covered under § 120.17(a)(3), or involves an embassy under § 120.17 (a)(4). The Department confirms that simply allowing a foreign person in the United States to possess a defense article does not require authorization under the ITAR unless technical data is revealed to that person through the possession, including subsequent inspection, of the defense article, or that person is taking the defense article into an embassy.

One commenter stated that § 120.17(a)(2) implies that only transfers to foreign persons that occur in the United States constitute an export and asked the Department to add "or abroad" to include transfers to foreign persons outside of the United States. The Department does not accept the comment. One of the improvements of the new definitions for export, reexport, and retransfer is that they more specifically delineate the activities described by each term. The Department confirms that the transfer of technical data to a foreign person is always a controlled activity that requires authorization from the Department. The shipment of technical data, in physical, electronic, verbal, or any other format, from the United States to a foreign country is an export under § 120.17(a)(1). The release of technical data to a foreign person in the United States is an export under § 120.17(a)(2). The release of technical data to a foreign person in a foreign country is a retransfer under § 120.51(a)(2), if the person is a national of that country, or a reexport under § 120.19(a)(2), if the person is a dual or third country national (DN/TCN). The shipment of technical data, in physical, electronic, verbal, or any other format, from one foreign country to another foreign country is a reexport under § 120.19(a)(1). Finally, the shipment of technical data, in physical, electronic, verbal, or any other format, within one foreign country is a retransfer under § 120.51(a)(1).

One commenter asked why paragraph (b) in §§ 120.17 and 120.19 is not within paragraph (a)(2) of each definition, as that paragraph deals with releases of technical data. The Department did not include the text of paragraph (b) in §§ 120.17 and 120.19 as a note because it warrants being included in the ITAR as regulatory text. The Department notes that paragraph (b) applies to all of paragraph (a) and not just to paragraph (a)(2). The Department did not include paragraph (b) in § 120.51 because a retransfer will only involve same country nationals. A release to a dual or third country national will be an export or reexport.

One commenter asked if theoretical or potential access to technical data is a release. The Department confirms that theoretical or potential access to technical data is not a release. As stated in the preamble to the interim final rule however, a release will have occurred if a foreign person does actually access technical data, and the person who provided the access is an exporter for the purposes of that release.

One commenter asked how extensively an exporter is required to inquire as to a foreign national's past citizenships or permanent residencies. The Department confirms that any release to a foreign person is a controlled event that requires authorization to all countries where that foreign person holds or has held citizenship or is a permanent resident. The Department also confirms that it will consider all circumstances surrounding any unauthorized release and will assess responsibility pursuant to its civil enforcement authority based on the relative culpability of all of the parties to the transaction.

One commenter asked if an exporter is required to inquire into citizenships a foreign national has renounced. The Department confirms that any release to a foreign person is a controlled event that requires authorization to all countries where that foreign person has held citizenship.

One commenter asked which citizenship controls (for purposes of DDTC authorizations) apply where a foreign national has multiple citizenships. The Department confirms that any release to a foreign person is a controlled event that requires authorization to all countries where that foreign person holds or has held citizenship or is a permanent resident, and that such authorization or authorizations must authorize all applicable destinations.

One commenter asked if DDTC considers an individual's country of birth sufficient to establish a particular nationality for that individual for ITAR purposes (*i.e.,* will DDTC consider a person born in a particular country as a national of that country, even if the person does not hold citizenship or permanent residency status in his/her country of birth?). The Department confirms that in circumstances where birth does not confer citizenship in the country of birth, it does not confer citizenship or permanent residency in that country for purposes of the ITAR. One commenter noted that the DDTC Agreement Guidelines refer to the country of origin or birth, in addition to citizenship, as a consideration when vetting DN/TCNs. The Department has updated the Agreement Guidelines consistent with the interim final rule.

Several commenters asked whether a temporary retransfer to a separate legal entity within the same country, such as for the purpose of testing or to subcontractors or intermediate consignees, is within the scope of § 120.51. The Department confirms that such a temporary retransfer is a temporary change in end-user or end-use and is within the scope of § 120.51. The Department revises § 120.51 to clarify this point by adding ". . . or temporary transfer to a third party. . . ."

Several commenters asked that the Department remove "letter of explanation" from §§ 123.28 and 124.1(e), stating that foreign parties do not have access to "letters of explanation" and other side documents which may have been submitted by the U.S. applicant, and which may impact the scope of the authorization. The Department does not accept the comments to the extent that they recommend a change to the regulatory text. However, the Department acknowledges the importance of the foreign parties being informed of the scope of the authorization relevant to their activities and will address the commenters' concerns in the licensing process.

One commenter noted that, based upon the consolidation of § 124.16 into § 126.18, the reference to § 124.16 under § 126.18(a) is no longer accurate. The Department notes that amendatory instruction #16 in the interim final rule makes this amendment.

One commenter asked if use of the word reexport in new § 126.18(d) means that only employees who have the same nationality as their employer can receive technical data directly from, or interact with, the U.S. exporter, with attendant responsibility on the employer who reexports such technical data to its DN/TCN. The Department confirms that, to the extent that a DN/TCN employee of an authorized end user, foreign signatory, or consignee acts as an authorized representative of that company, the provision of technical data by an authorized U.S. party to the foreign company through the DN/TCN employee is a reexport from the foreign company to the DN/TCN employee that may be authorized under § 126.18.

One commenter noted that new § 126.18(d)(4) will require individual DN/TCNs to sign an non-disclosure agreement (NDA) unless their employer is a signatory to a relevant agreement, meaning that authorized DN/TCNs will have to sign an NDA for access to articles covered by a license. The commenter further noted that the exemptions progressively introduced for DN/TCNs were motivated at least in part by concerns among U.S. allies about domestic anti-discrimination law. The Department does not accept this comment. All activities that could be authorized under § 124.16 remain available under § 126.18(d). If a foreign party is not able to utilize the expansion of the authorization to non-agreement-related reexports due to its domestic law, the other provisions of § 126.18 remain available.

One commenter asked whether the requirement of § 126.18(d)(5) that authorized individuals are "[n]ot the recipient of any permanent transfer of hardware" is intended to limit authorized recipients of temporary hardware transfers or to require, in the case of reexports to an individual person, the separate authorization by name or controlling entity on the agreement. The Department intended that permanent retransfers of hardware not be authorized under § 126.18(d). Eligible individuals may receive temporary hardware transfers or receive hardware on a temporary basis. If a permanent retransfer to an individual is intended, that person should be separately authorized by name or controlling entity on the agreement.

One commenter noted that in §§ 125.4(b)(9) and 126.18(d), the defined term regular employee is modified. Revised § 125.4(b)(9)(iii) requires that an employee, including foreign person employees, be "directly employed by" a U.S. person. Revised § 126.18(d)(1), refers to "bona fide regular employees directly employed by the foreign business entity . . . ." The commenter requested that the Department clarify the use of the term "regular employee" and state clearly if conditions apply beyond those stated in the definition of "regular employee" set forth in § 120.39. The Department accepts the comment in part. The Department also confirms that a regular employee is any party who meets the definition set forth in § 120.39 and that § 126.18(d) is updated to clarify that the control relates to regular employees as defined in § 120.39. However, in § 125.4(b)(9), the term "directly employed" is used to distinguish employees of a U.S. person from employees of related business entities, such as foreign subsidiaries. The Department confirms that all regular employees of the U.S. person, under § 120.39, are included within the authorization, including an individual in a long-term contractual relationship hired through a staffing agency.

One commenter noted that § 125.4(a) excludes use of the § 125.4(b) exemptions for § 126.1 countries and stated that it would be advantageous for the U.S. government if U.S. exporters could utilize § 125.4(b)(9) in the context of U.S. persons or foreign person employees supporting the U.S. government in a § 126.1 country. The Department does not accept the comment. Exports by private companies to § 126.1 countries require individual authorizations, unless authorized under § 126.4. Changes to § 126.4 to account for transfers in support of U.S. government efforts will be addressed in a separate rulemaking.

One commenter noted that the revision to § 125.4(b)(9) expands the scope of the provision to allow exports, reexports, and retransfers to and between U.S. persons employed by different U.S. companies and the U.S. government. The commenter stated their opinion that this expansion is appropriate and desirable, as it benefits the U.S. government in practical situations. The Department accepts this comment and confirms that such exports, reexports, and retransfers may be authorized under the revised § 125.4(b)(9), if all other terms and conditions are met.

One commenter asked the Department to clarify the impact of the new and revised definitions on the requirements under Part 130. The Department confirms that the changes to the ITAR in the interim final rule did not change the requirements under Part 130. The Department also revises § 130.2 to clarify this understanding.

One commenter noted that the Department did not publish a final rule for activities that are not exports, reexports, or retransfers, and that the Bureau of Industry and Security (BIS) at the Department of Commerce did publish such a provision. The commenter asked the Department to clarify if any of the activities described by BIS as not being exports, reexports, or transfers under the Export Administration Regulations (EAR) would be exports, reexports, or retransfers under the ITAR. The Department confirms that it would not be appropriate to rely on provisions outside of the ITAR or guidance provided by any entity other than the Department for authoritative interpretive guidance regarding the provisions or scope of the ITAR. The Department also notes that any activity meeting the definition of export, reexport, or retransfer requires authorization from the Department unless explicitly excluded by a provision of the ITAR, the Arms Export Control Act, or other provision of law.

One commenter asked if, as the Department did not publish a final rule defining "required" or "directly related," exporters can rely on definitions in the EAR or guidance from the BIS on those two terms. The ITAR does not define "required" or "directly related." The Department confirms that it would not be appropriate to rely on definitions outside of the ITAR or guidance provided by any entity other than the Department for authoritative interpretive guidance regarding the provisions or scope of the ITAR. Further questions regarding the application of the terms "required" or "directly related" should be referred to the Department for additional interpretive guidance.

Several commenters submitted comments regarding definitions and other provisions that were included in the proposed rule, but not published in the interim final rule. The Department did not accept comments on issues not addressed in the interim final rule and will address those definitions and other provisions included in the proposed rule, but not published in the interim final rule, in a separate rulemaking.

Other Changes in This Rulemaking

In this final rule, the Department has also made changes to §§ 126.16 and 126.17 to ensure that they remain consistent with the definitions contained in the treaties (with Australia and the United Kingdom, respectively) that they implement. These treaties are controlling law, and the Department realized that, unless a correction were made in this final rule, the ITAR definitions of "reexport" and "retransfer" would be inconsistent with the treaty definitions. Therefore, for those two sections and the matters controlled therein, the treaty definitions will control. Conforming edits were also made to the definitions in §§ 120.19 and 120.51 to clarify that the definitions did not apply to matters covered by the treaties.

Regulatory Findings

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the U.S. government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rulemaking is exempt from the rulemaking provisions of the APA and without prejudice to its determination that controlling the import and export of defense articles and defense services is a foreign affairs function, the Department provided a 30-day public comment period and is responding to the comments received.

Regulatory Flexibility Act

Since this rulemaking is exempt from the rulemaking provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act"), a major rule is a rule that the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) finds has resulted or is likely to result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets. The Department does not believe this rulemaking will meet these criteria.

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). The executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OIRA has not designated this rulemaking a "significant regulatory action" under section 3(f) of Executive Order 12866.

Executive Order 12988

The Department of State has reviewed the rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35; however, the Department of State seeks public comment on any unforeseen potential for increased burden.

List of Subjects

22 CFR 120 and 125

Arms and munitions, Classified information, Exports.

22 CFR 126

Arms and munitions, Exports.

22 CFR 130

Arms and munitions, Campaign funds, Confidential business information, Exports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth above, the interim final rule that was published at 81 FR 35611 on June 3, 2016, is adopted as a final rule with the following changes:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 120.19 is amended by revising paragraph (a) introductory text to read as follows:

§ 120.19 Reexport.

(a) *Reexport,* except as set forth in § 126.16 or § 126.17, means:

* * * * *

■ 3. Section 120.51 is revised to read as follows:

§ 120.51 Retransfer.

(a) *Retransfer,* except as set forth in § 126.16 or § 126.17, means:

(1) A change in end use or end user, or a temporary transfer to a third party, of a defense article within the same foreign country; or

(2) A release of technical data to a foreign person who is a citizen or permanent resident of the country where the release or transfer takes place.

(b) [Reserved]

PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES

■ 4. The authority citation for part 125 continues to read as follows:

Authority: Secs. 2 and 38, 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); 22 U.S.C. 2651a; E.O. 13637, 78 FR 16129.

■ 5. Section 125.1 is amended by adding paragraph (f) to read as follows:

§ 125.1 Exports subject to this part.

* * * * *

(f) Unless limited by a condition set out in an agreement, the export, reexport, retransfer, or temporary import authorized by a license is for the item(s), end-use(s), and parties described in the agreement, license, and any letters of explanation. DDTC approves agreements and grants licenses in reliance on representations the applicant made in or submitted in connection with the agreement, letters of explanation, and other documents submitted.

PART 126—GENERAL POLICIES AND PROVISIONS

■ 6. The authority citation for part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108–375; Sec. 7089, Pub. L. 111–117; Pub. L. 111–266; Sections 7045 and 7046, Pub. L. 112–74; E.O. 13637, 78 FR 16129.

■ 7. Section 126.16 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 126.16 Exemption pursuant to the Defense Trade Cooperation Treaty between the United States and Australia.

(a) * * *

(1) * * *

(iii) *Reexport and retransfer.* (A) Reexport means, for purposes of this section only, the movement of previously Exported Defense Articles by a member of the Australian Community from the Approved Community to a location outside the Territory of Australia.

(B) Retransfer means, for purposes of this section only, the movement of previously Exported Defense Articles by a member of the Australian Community from the Approved Community to a location within the Territory of Australia;

* * * * *

■ 8. Section 126.17 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 126.17 Exemption pursuant to the Defense Trade Cooperation Treaty between the United States and United Kingdom.

(a) * * *

(1) * * *

(iii) *Reexport and retransfer.* (A) Reexport means, for purposes of this section only, movement of previously Exported Defense Articles by a member of the United Kingdom Community from the Approved Community to a location outside the Territory of the United Kingdom.

(B) Retransfer means, for purposes of this section only, the movement of previously Exported Defense Articles by a member of the United Kingdom Community from the Approved Community to a location within the Territory of the United Kingdom.

* * * * *

■ 9. Section 126.18 is amended by revising paragraph (d)(1) to reads as follows:

§ 126.18 Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals.

* * * * *

(d) * * *

(1) Regular employees of the foreign business entity, foreign governmental entity, or international organization;

* * * * *

PART 130—POLITICAL CONTRIBUTIONS, FEES AND COMMISSIONS

■ 10. The authority citation for part 130 continues to read as follows:

Authority: Sec. 39, Pub. L. 94–329, 90 Stat. 767 (22 U.S.C. 2779); 22 U.S.C. 2651a; E.O. 13637, 78 FR 16129.

■ 11. Section 130.2 is revised to read as follows:

§ 130.2 Applicant.

Applicant means any person who applies to the Directorate of Defense Trade Controls for any license or approval required under this subchapter for the export, reexport, or retransfer of defense articles or defense services valued in an amount of $500,000 or more which are being sold commercially to or for the use of the armed forces of a foreign country or international organization. This term also includes a person to whom the required license or approval has been given.

Rose E. Gottemoeller,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2016–21481 Filed 9–7–16; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS JOHN FINN (DDG 113) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective September 8, 2016 and is applicable beginning August 10, 2016.

FOR FURTHER INFORMATION CONTACT: Commander Theron R. Korsak, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS JOHN FINN (DDG 113) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(ii), pertaining to the placement of task lights; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, amend part 706 of title 32 of the CFR as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ a. In Table Four, Paragraph 15 by adding, in alpha numerical order, by vessel number, an entry for USS JOHN FINN (DDG 113);

■ b. In Table Five, by adding, in alpha numerical order, by vessel number, an entry for USS JOHN FINN (DDG 113):

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Table Four

* * * * *

15. * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * *	* *	* *
USS JOHN FINN	DDG 113	1.90 meters
* * *	* *	* *

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS JOHN FINN	DDG 113		X	X	14.5
* *	*	*	*	*	*

Approved: August 10, 2016.

C.J. Spain,

Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Acting.

Dated: August 31, 2016

C. Pan,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2016–21598 Filed 9–7–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0798]

Safety Zones; Fireworks Events in Captain of the Port New York Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones within the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels and spectators from hazards associated with fireworks displays. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zones described in 33 CFR 165.160 will be enforced on the dates and times listed in the table in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer First Class Ronald Sampert U.S. Coast Guard; telephone 718–354–4154, email *ronald.j.sampert@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified dates and times as indicated in Table 1 below. This regulation was published in the **Federal Register** on November 9, 2011 (76 FR 69614).

TABLE 1

Rose Event, Pier D, Hudson River Safety Zone, 33 CFR 165.160(5.7)	Launch site: A barge located in approximate position 40°42′57.5″ N., 074°01′34″ W., (NAD 1983), approximately 375 yards southeast of Pier D, Jersey City, New Jersey. This Safety Zone is a 360-yard radius from the barge. • Date: September 10, 2016. • Time: 7 p.m.–9 p.m.
2. Pop Event Planning, Ellis Island Safety Zone., 33 CFR 165.160(2.2)	• Launch site: A barge located between Federal Anchorages 20–A and 20–B, in approximate position 40°41′45″ N., 074°02′09″ W., (NAD 1983) about 365 yards east of Ellis Island. This Safety Zone is a 360-yard radius from the barge. • Date: September 15, 2016. • Time: 8:45 p.m.–10 p.m.
3. Save the Date, Ellis Island Safety Zone, 33 CFR 165.160(2.2)	• Launch site: A barge located between Federal Anchorages 20–A and 20–B, in approximate position 40°41′45″ N., 074°02′09″ W., (NAD 1983) about 365 yards east of Ellis Island. This Safety Zone is a 360-yard radius from the barge. • Date: October 27, 2016. • Time: 8:30 p.m.–10 p.m.

Under the provisions of 33 CFR 165.160, vessels may not enter the safety zones unless given permission from the COTP or a designated representative. Spectator vessels may transit outside the safety zones but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts.

If the COTP determines that a safety zone need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the safety zone.

Dated: August 18, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2016–21503 Filed 9–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 160413333–6721–01]

RIN 0648–BF98

Approach Regulations for Humpback Whales in Waters Surrounding the Islands of Hawaii Under the Marine Mammal Protection Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Interim final rule; notice of availability of Environmental Assessment.

SUMMARY: We, NMFS, are issuing regulations under the Marine Mammal

Protection Act (MMPA) to prevent take by protecting humpback whales (*Megaptera novaeangliae*) from the detrimental effects resulting from approach by humans within 200 nautical miles (370.4 km) of the islands of Hawaii. These regulations are necessary because existing regulations promulgated under the Endangered Species Act (ESA) protecting humpback whales from approach in Hawaii will no longer be in effect upon the effective date of a final rule published elsewhere in today's issue of the **Federal Register** that separates humpback whales into 14 Distinct Population Segments (DPSs) and identifies the "Hawaii DPS" as neither endangered nor threatened. These MMPA regulations prohibit operating an aircraft within 1,000 feet (304.8 m) of a humpback whale, approaching within 100 yards (91.4 m) of a humpback whale by any means, causing a vessel, person or other object to approach within 100 yards (91.4 m) of a humpback whale, or approaching a humpback whale by interception (*i.e.*, placing an aircraft, vessel, person, or other object in the path of a humpback whale so that the whale approaches within a restricted distance). The regulations also prohibit the disruption of normal behavior or prior activity of a humpback whale by any act or omission. Certain vessels and activities are exempt from the prohibition. NMFS finds that there is good cause to waive public notice and comment prior to implementation of these regulations in order to avoid a gap in protections for the whales. However, we are requesting comments on the regulations and Environmental Assessment; NMFS will subsequently publish a final rule with responses to comments and any revisions, if appropriate.

DATES: This rule is effective October 11, 2016. Comments must be received no later than 5 p.m. on November 7, 2016.

ADDRESSES: You may submit comments, information, or data on this interim final rule and the Environmental Assessment identified by NOAA–NMFS–2016–0046, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0046*. Click the "Comment Now" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Susan Pultz, Chief, Conservation Planning and Rulemaking Branch, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1845 Wasp Blvd., Bldg 176, Honolulu, HI 96818, Attn: Humpback Whale Approach Regulations.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous), although submitting comments anonymously will prevent us from contacting you if we have difficulty retrieving your submission.

FOR FURTHER INFORMATION CONTACT: Susan Pultz, NMFS, Pacific Islands Regional Office, Chief, Conservation Planning and Rulemaking Branch, 808–725–5150; or Trevor Spradlin, NMFS, Office of Protected Resources, Deputy Chief, Marine Mammal and Sea Turtle Conservation Division, 301–427–8479.

SUPPLEMENTARY INFORMATION:

Background

Humpback whales occur throughout the world in both coastal and open ocean areas. They are a highly migratory species, moving between breeding grounds in tropical and subtropical latitudes and feeding grounds in temperate and polar latitudes. A large portion of the humpback whales found in the North Pacific occupy waters surrounding Hawaii annually during winter months where they engage in breeding, calving, and nursing behaviors. They are commonly found in Hawaii between October and May, with the peak season—the highest concentration of whales in the region—occurring from January through March. However, there are confirmed sightings and several anecdotal reports of humpback whales arriving to the region as early as August and remaining in the area until as late as June.

Prior to commercial whaling, the worldwide population of humpback whales is thought to have been in excess of 125,000 individuals (NMFS, 1991), with abundance of humpback whales in the North Pacific estimated at 15,000 individuals (Rice, 1978). Between 1905 and 1960, intense commercial whaling operations targeted humpback whales worldwide and depleted the species in the North Pacific to approximately 1,000 individuals (Rice, 1978). Humpback whale abundance estimates in the waters surrounding Hawaii in the 1960s are not clear, but estimates around 1977 were as low as 895 (Darling *et al.*, 1983).

In 1966, treaties under the International Whaling Commission (IWC) protected humpback whales from further harvesting by issuing a global moratorium on the whaling of the species, including in the North Pacific. The humpback whale was then listed as an endangered species in 1970 under the United States (U.S.) Endangered Species Conservation Act of 1969, which was later superseded by the ESA. Humpback whales were considered to be a depleted species under the U.S. Marine Mammal Protection Act (MMPA) of 1972 on the basis of their ESA listing. In 1992, Congress created the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) under the Hawaiian Islands National Marine Sanctuary Act to protect humpback whales and their habitat in Hawaii.

Humpback whale abundance estimates in Hawaii have increased over time to the most recent 2006 estimate of 10,103 humpback whales (Calambokidis *et al.*, 2008). The Office of National Marine Sanctuaries (ONMS) estimates that the current abundance of humpback whales that use waters surrounding Hawaii is between 10,000 and 15,000 animals, although not all of these animals are in Hawaii at the same time during the season (ONMS, 2015).

Protections and Prohibitions

Marine Mammal Protection Act of 1972

The MMPA provides substantial protections to all marine mammals, although there are no regulations that specifically address humpback whales under the MMPA in Hawaii. Under section 102 of the MMPA, it is unlawful for any person, vessel, or other conveyance to "take" any marine mammal in waters under the jurisdiction of the United States (16 U.S.C. 1372). Section 3(13) of the MMPA defines the term "take" as "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal" (16 U.S.C. 1362 (13)). Except with respect to military readiness activities and certain scientific research activities, the MMPA defines the term harassment as "any act of pursuit, torment, or annoyance which: (i) Has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment)'' (16 U.S.C. 1362 (18)).

NMFS' regulations implementing the MMPA further describe the term ''take'' to include ''the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild'' (50 CFR 216.3). The MMPA provides limited exceptions to the prohibition on take for activities, such as scientific research, public display, or incidental take in commercial fisheries. Such activities require a permit or authorization, which may be issued only after a thorough agency review.

Section 112 of the MMPA authorizes NMFS to implement regulations that are ''necessary and appropriate to carry out the purpose'' of the MMPA (16 U.S.C. 1382).

Endangered Species Act of 1973

Humpback whales have been listed as endangered under the ESA since 1970. The ESA prohibits any action that results in a take of a listed species, unless authorized or permitted. A take is defined by the ESA as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1531 *et seq.*). The ESA does not specifically define the term ''harassment'' of a listed species.

Protections for humpback whales in Hawaii were initially promulgated under the ESA, after NMFS determined that guidelines published in 1979 as a ''Notice of Interpretation of 'Taking by Harassment' in Regard to Humpback Whales in the Hawaiian Islands Area'' (44 FR 1113) proved ineffective in protecting humpback whales in Hawaii from tour vessel operators approaching closer than the recommended viewing guidelines. The ESA rule protecting humpback whales in Hawaii was published on November 23, 1987 as an interim regulation (52 FR 44912), and then finalized on January 19, 1995 (60 FR 3775). That rule made it unlawful to operate an aircraft within a 1,000 feet, approach by any means within 100 yards, cause a vessel or other object to approach within a 100 yards, or disrupt the normal behavior or prior activity of a humpback whale by any other act or omission. Regulations regarding implementation of the ESA were then reorganized on March 23, 1999, and the section containing the approach regulations for humpback whales in Hawaii was changed from 50 CFR 222.31 to 50 CFR 224.103 (64 FR 14052).

Today, we publish elsewhere in this issue of the **Federal Register** a final rule to separate humpback whales into 14 DPSs and revise the species-wide listing. In that rule, the humpback whales that use the waters surrounding Hawaii as their breeding grounds are identified as the ''Hawaii DPS,'' which is not listed under the ESA as endangered or threatened and, therefore, is no longer protected under the ESA. Because our approach regulations for humpback whales were authorized only under the ESA, these protections will no longer be in effect upon the effective date of the listing rule. Humpback whales in Hawaii would continue to be protected by approach regulations only within the boundaries of the HIHWNMS under the National Marine Sanctuaries Act (15 CFR 922.184 (a)(1)–(2) and (b)).

In the proposed listing rule, we solicited comments on whether we should continue to have approach regulations for the Hawaii humpback whales—other than in the sanctuary—if these whales are no longer listed under the ESA. We received five comments on this topic. Two of the comments were in support of continuing approach regulations for areas outside the sanctuary, and one of these comments further requested that an approach rule for the Hawaii humpback whales include an interception or leapfrog provision. One comment opposed an approach rule outside of the sanctuary, noting that the vessels do not pose a threat to the whales. As discussed in greater detail below, we disagree that vessels do not pose a threat to the whales. Finally, two comments generally supported approach regulations for humpback whales in U.S. waters.

Need for Action

The need for this action is to ensure that humpback whales are protected from take where protections from close approach do not exist or no longer apply. Because humpback whales in Hawaii will no longer be protected from take or harassment under the ESA upon the effective date of the humpback whale ESA listing rule, and because humpback whales are such charismatic species that invariably attract individuals and tour companies to interact with them, we believe regulatory protections are necessary and appropriate to prevent take, including harassment, as those terms are defined by the MMPA. Evidence cited under ''Rationale for Regulations'' below shows that interactions between humpback whales and vessels harass the whales, as shown by changes in behavior of the whales when closely approached, and pose a danger to humpback whales due to potential for vessel collisions. This is particularly concerning in Hawaiian waters where they breed, calve, and nurture their young. Further, preventing take fosters humpback whale health, development, and safety.

Interim Final Rulemaking

The regulatory measures in this interim final rule are designed to protect humpback whales from take or harassment, as defined by the MMPA, from approach within 200 nautical miles (370.4 km) of the islands of Hawaii. Although we stress that unpermitted take of humpback whales or any marine mammals continues to be prohibited by the MMPA in any location, we believe that specific regulations aimed at approach and human interactions that result in take of humpback whales in Hawaii are warranted because: (1) Humpback whales are charismatic and sought out by local community members and tourists; (2) commercial and recreational whale watchers and other tour operators are expected to pursue humpback whales for close encounters absent protections; (3) the number of whales and humans using waters surrounding Hawaii has increased and continues to increase, thus raising the likelihood of human-whale interactions; and (4) approaching whales during the breeding, calving, and nursing season is likely to cause disturbance that could adversely affect reproduction and development of individuals. We are issuing these regulations pursuant to our rulemaking authority under MMPA sections 112(a) (16 U.S.C. 1382(a)) and 102 (16 U.S.C. 1372).

NMFS is implementing an interim final rule to ensure that there is no lapse in protection for humpback whales in Hawaii once the final ESA listing rule becomes effective. Notwithstanding this interim final rule, we are soliciting public comments on the Hawaii approach rule. NMFS will respond to any public comments in a final rule.

Scope and Applicability

Applications to All Humpback Whales

Under the MMPA, the regulations apply to all humpback whales found in the action area.

Geographic Action Area

The action area for this rule is limited to the waters within 200 nautical miles (370.4 km) from shore of the islands of Hawaii. The islands of Hawaii consist of the entire Hawaiian Archipelago, including the Main Hawaiian Islands (Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai, and Niihau) and the Northwestern Hawaiian Islands.

Applications to All Forms of Approach

The regulations apply to all forms of approach in water and air. Forms of approaching humpback whales include, but are not limited to, operating a manned or unmanned motorized, non-motorized, self-propelled, human-powered, or submersible vessel; operating a manned aircraft; operating an unmanned aircraft system (UAS) or drone; and swimming at the water surface or underwater (*i.e.,* SCUBA or free diving). With this rule, we are not changing our existing approach restrictions for aircraft or other objects, including UASs. UASs are, at minimum, objects, and therefore UASs are not to approach humpback whales within 100 yards without a permit. We recognize that for many other purposes, however, UASs are considered "aircraft," and we anticipate providing further guidance on this in the future.

Approach Prohibitions

The regulation prohibits people from operating aircraft within 1,000 feet (304.8 m) or approaching by any means within 100 yards (91.4 m) of humpback whales within the action area described above (see *Geographic Action Area*). This includes approach by interception (*i.e.,* placing an aircraft, vessel, person, or other object in the path of a humpback whale so that the whale approaches within the restricted distance), also known as "leap frogging." The regulations also prohibit disrupting the normal behavior or prior activity of a humpback whale. A disruption of normal behavior can include, but is not limited to, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities; attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movements; or the abandonment of a previously frequented area.

Exceptions

We have determined that the following specific categories are exempt from the regulations:

(1) Federal, State, or local government vessels or persons operating in the course of their official duties such as law enforcement, search and rescue, or public safety;

(2) Vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment;

(3) Vessels restricted in their ability to maneuver, and because of this restriction are not able to comply with approach restrictions; or

(4) Vessels or persons authorized under permit or authorization issued by NMFS to conduct scientific research or response efforts that may result in taking of humpback whales.

Rationale for Regulations

Threats From Human Interaction

Close human interaction poses a significant risk to the health and social structure of humpback whales. Because they are large and charismatic, humpback whales are often approached and observed by whale watchers and wildlife enthusiasts who are on vessels (boats), aircraft, or in the water. The interactions that ensue can result in take or harassment by causing injury or disrupting the normal behavior or prior actions of whales.

There are few studies that have directly examined the effects of approach of humpback whales in Hawaii. This may be due to lack of prioritization in research because protections from approach have been implemented in the region for 29 years, or because longstanding approach restrictions have resulted in fewer instances of humpback whale take or harassment from approach in Hawaii than other areas that do not have approach restrictions. However, there is a large amount of research on adverse effects of human interaction and approach on humpback whales and similar species in other regions throughout the world. Below, we summarize our use of this analogous evidence to analyze management options for minimizing take or harassment of understudied humpback whales in Hawaii from approach. We also consider research from other regions that do not have approach restrictions to provide insight on future potential effects on humpback whales in Hawaii if approach regulations are no longer in effect.

Threats to humpback whales from human interaction can result from vessel interactions, which create a risk of collisions, aircraft interactions, noise, and other human interactions, such as swimming with whales, that disrupt and interfere with the whales' normal activities while they are in Hawaii. Humpback whales in Hawaii may be more susceptible to harmful effects from human interaction than other regions because disruption of breeding, nursing, and calving activities could potentially impede healthy reproduction and development of the species. Furthermore, we expect an increase in human-whale interactions as both human and whale populations continue to increase.

Vessel Interactions

Vessel approach and interactions with humpback whales can lead to behavioral changes or physical injury to the whale, which may affect energy budgets and habitat use patterns, cause displacement from preferred habitats, and affect individual and population health and fitness. Humpback whales have been found to exhibit predictable changes in behavior in response to vessels in close proximity to the animals. Behavioral responses in humpback whales such as changes in swimming speed, respiration, diving, and social behaviors were linked to vessel numbers, speed, and proximity in waters around Maui (Bauer and Herman, 1986; Bauer *et al.,* 1993). In other parts of the world, Baker and Herman (1989) found that humpback whales in Alaska responded to vessels within 4,000 m with changes in respiratory behavior (decreasing blow intervals and increasing dive times) and orientation (moving away from approaching vessels' path). They concluded that vessels repeatedly approaching humpback whales could result in abandonment of their preferred feeding areas. A study examining approach to humpback whales in Hervey Bay, Australia concluded that whales were more likely to dive when vessels were within 300 m than when they are farther away, implying that vessels in close proximity to humpback whales can elicit evasive behavior (Corkeron, 1995). Another study off New South Wales, Australia observed a response from humpback whales when approached by a whale watch vessel 40 percent of the time, with 23 percent having approached the vessel and 17 percent having avoided the vessel (Stamation *et al.,* 2010). Most observed humpback whales that approached the whale watch vessels during this study elicited behaviors attributed to disruption (*e.g.,* trumpet blows and fluke swishes), and whales that avoided the vessels were reported to have longer dive times and time submerged. Vessels that approached humpback whales within 100 m were significantly more likely to elicit an avoidance response, particularly with regard to pods with a calf. Overall, humpback whales that were approached by whale watch vessels had a higher dive time, higher time submerged, and fewer surface activity behaviors than whales that were observed from the shore without vessels present, and pods with calves were more sensitive to vessel approach than pods without calves (Stamation *et al.*, 2010).

In yet other situations, humpback whales became quickly habituated to human activity when repeatedly exposed to vessel traffic in the North Atlantic (Watkins, 1986). Habituation to human activity in Hawaii can lead to an increase in encounters between humans and whales, making whales more susceptible to physical injury from vessel strikes. This may especially be true for young humpback whales that are at an impressionable stage in development; 63.5 percent of vessel collisions between 1975 and 2011 in Hawaii involved calves and juveniles (Lammers *et al.*, 2013). Regardless of whether humpback whales are eliciting evasive or incautious behavior, it is evident that behavioral harassment (take) of whales can occur with vessel approach.

Because humpback whales annually migrate over extremely long distances, energy budgeting is crucial for the health and reproduction of the species. A recent study by Braithwaite *et al.* (2015) measured the effects of vessel disturbance on energy use of humpback whales during migration. They concluded that overall energy use in migrating humpback whales increases when disturbed by encounters with approaching vessels. It is rare that humpback whales feed in waters surrounding Hawaii, so these animals are reliant on limited fat stores to provide energy for their breeding, calving, and nursing activities in the region. Any deficiency in the conservation of energy can be detrimental to these essential reproductive behaviors. Excessive energy use can be particularly taxing on pregnant and postpartum humpback whale females and their calves. An exorbitant amount of energy is needed to give birth to and nurse newborn calves (Darling 2001). An increase in energy use because of vessel disruptions in waters surrounding Hawaii can have negative implications for the health of mothers and the growth potential of calves (Braithwaite *et al.*, 2015).

Reports of humpback whale harassment are common in Hawaii. NOAA Office of Law Enforcement (OLE) documented hundreds of complaints concerning harassment of humpback whales around Hawaii between 2007 and 2014. Although the locations of reported harassments to NOAA–OLE were not always precise, there were numerous complaints in areas outside the HIHWNMS.

Humpback whales may be particularly sensitive to human interaction in Hawaii during their breeding, calving, and nursing behaviors. Because the relationship between adults, particularly mothers, and calves early in the calves' lives is an integral stage in the social development of the species, disrupting the mother-calf relationship can hinder the behavioral development of humpback whale calves (Cartwright, 1999; Darling, 2001; Glockner-Ferrari and Ferrari, 1985). Aggressive behavior on the part of male whales and lack of awareness by males, as well as females avoiding these males, potentially make whales more susceptible to vessel strikes. Male humpback whales often display aggressive behavior during courting activities in the Hawaii breeding grounds (Darling *et al.*, 1983; Tyack and Whitehead, 1983; Baker and Herman, 1984; Glockner-Ferrari and Ferrari, 1985; Clapham *et al.*, 1992). Although aggressive behavior by humpback whales towards humans is uncommon, an increase in interactions with humans could potentially create more stress for animals that are already in a combative state (Baker and Herman, 1984; Bauer and Herman, 1986). Furthermore, males engaging in competitive behaviors and females avoiding aggressive advances from one or more males may not be fully cognizant of approaching vessels. Female whales have even been observed leading pursuing males closely to vessels in order to thwart their advances to mate (Glockner-Ferrari and Ferrari, 1985). Females protecting newborn calves and male escorts maintaining mating status with post-partum females with calves have also been observed displaying aggressive behaviors towards intruders, including humans (Darling, 2001). Aggressive courting and mating behaviors by both male and female humpback whales can increase the risk of vessel strikes. Restrictions against approaching whales while in this vulnerable state would lessen hazards for whales and humans.

Vessel Collisions

Collisions between vessels and whales often result in life-threatening trauma or death for the cetacean. The impact is frequently caused by forceful contact with the bow or propeller of the vessel. Vessel strikes of humpback whales are typically identified by evidence of massive blunt force trauma (fractures of heavy bones and/or hemorrhaging) in stranded whales, and propeller wounds (deep slashes or cuts) and fluke/fin amputations on stranded or live whales (Wiley and Asmutis, 1995).

There is substantial evidence indicating vessel strikes with whales are increasing both globally and in Hawaii (Laist *et al.*, 2001; De Stephanis and Urquiola, 2006; Panigada *et al.*, 2006; Douglas *et al.*, 2008; Carrillo and Ritter, 2010; Lammers *et al.*, 2013). Lammers *et al.* (2013) estimated that reports of vessel collisions (*i.e.*, any physical contact between a humpback whale and a vessel) increased 20-fold between 1976 and 2011 in the waters surrounding Hawaii, particularly between 2000 and 2011. There were 68 confirmed reports of vessel collisions during this timeframe, and 63 percent of the collisions involved calves and subadults (Lammers *et al.*, 2013). Between 2007 and 2012, there were 39 confirmed reports of vessel collisions with humpback whales near Hawaii; 11 of these collisions were determined to be serious injuries (*i.e.*, injury that will likely result in mortality, 50 CFR 229.2) and another 11 were proportionally prorated as serious injuries per the NMFS process for distinguishing serious from non-serious injury of marine mammals (NMFS, 2012; Bradford and Lyman, 2015). According to a database managed by the HIHWNMS, there were 76 reports of whale-vessel contacts in waters surrounding the Main Hawaiian Islands between 2002 and 2015, with a large majority of them occurring in the four islands region between Maui, Molokai, Lanai, and Kahoolawe. Of the vessel collisions where the status of the vessel's movement could be determined (*i.e.*, either normal transiting or more directly approaching humpback whales), 17 percent of reports (11 of 66, 10 undetermined) indicated that the vessel was operating in a more directed approach of a humpback whale (Ed Lyman, personal communication, April 29, 2016).

The increase in reported vessel strikes with humpback whales in Hawaii in recent years can likely be attributed to multiple factors. An extensive awareness campaign and Hotline number were initiated in 2003 and likely contribute to the increased number of reports. However, Lammers *et al.* (2013) compiled a summary of all reported vessel collisions in Hawaii between 1975 and 2011 and concluded that increasing numbers of humpback whales in Hawaii was an important contributor to the trend. Tour vessels (*e.g.*, whale watching, diving, snorkeling boats, etc.) comprised 61 percent of vessel collisions with humpback whales. Because the behavior of these vessels typically places them in close proximity to humpback whales, vessel collisions may have increased over time as the tour industry comparably expanded. It is important to note that tour vessels typically have a high number of passengers, and this may increase the likelihood of reporting a vessel collision.

Although more than half of reported vessel collisions with humpback whales in Hawaii in recent years occurred within the boundaries of the HIHWNMS, there have been a substantial number of vessel collisions outside Sanctuary waters. According to a database on reports of animals in distress managed by the HIHWNMS, 37 percent (28 of 76) of reported vessel collisions between 2002 and 2015 occurred outside the boundaries of the Sanctuary (Ed Lyman, HIHWNMS, personal communication, April 7, 2016). Many of the collisions outside the Sanctuary occurred in concentrated boat traffic and popular whale watching areas, such as the south shore of Oahu near Honolulu Harbor and the leeward side of Kauai. If legal protections from approaching humpback whales are not implemented outside the HIHWNMS, vessel collisions could significantly increase, especially with an increasing humpback whale population and increasing human-based use of the ocean in Hawaii.

Vessel collisions with humpback whales can also cause significant damage to vessels and result in serious harm to or death of passengers (*e.g.*, Laist *et al.*, 2001; Neilson *et al.*, 2012). Human injury and death have occurred on several incidents involving humpback whale collisions with boats in Hawaii. According to a database of human interactions managed by the HIHWNMS, 9.2 percent (7 of 76) vessel collisions with humpback whales between 2002 and 2015 involved injuries to passengers or crew; this figure does not include injuries sustained when vessels moved suddenly to avoid collisions (Ed Lyman, personal communication, April 7, 2016). Notable incidents of serious harm include a young child dying in 2003 from head trauma sustained after a close interaction with a humpback whale off of Oahu (DePledge, 2003), and one woman in 2001 and another in 2015 hospitalized after vessel collisions with humpback whales off of Kauai (DePledge, 2003; D'Angelo, 2015).

Aircraft Interactions

Aircraft flown in proximity to humpback whales in Hawaii have been shown to elicit a behavioral response. Smultea *et al.* (1995) reported that humpback whales near Kauai, particularly pods with calves, responded to low flying planes by increasing swim speeds and changing direction. General accounts of disturbance of humpback whales in Hawaii and other regions caused by a range of sources, including helicopter tours, were highlighted in a workshop that reviewed and evaluated whale watching programs (Atkins and Swartz, 1989). Other reports have also discussed cases of disturbance of humpback whales in Hawaii resulting from helicopters and other aircraft (Shallenberger, 1978; Tinney, 1988).

Several studies targeting other species and/or other regions also provide evidence that aircraft can disrupt large whales. In their review on the effects of man-made noise on whales, Richardson and Würsig (1997) claim aircraft overflights with altitudes as high as 400 m can elicit specific reactions (*e.g.*, sudden dives or turns and occasional tail or flipper slaps) from both baleen and toothed whales; however, behaviors can vary depending on species, animal activity, and water depth. Various behavioral responses from sperm whales were observed in response to aircraft throughout different parts of the world, including in waters near Kauai, where they reacted to aircraft at about 250 m in altitude and 360 m in horizontal distance (Smultea *et al.*, 2008). Short-term behavioral responses (*e.g.*, short surfaces, immediate dives or turns, changes in behavior state, vigorous swimming, and breaching) were observed in both bowhead and beluga whales when closely approached by helicopters and fixed-wing aircraft. Most reactions occurred within 150 m altitude and 250 m lateral distance of helicopters and 182 m altitude and 250 m (but up to 460 m) lateral distance of fixed-wing aircraft (Patenaude *et al.*, 2002). Aircraft that hover or repeatedly pass over whales at altitudes low enough to affect the whales are thought to cause significantly more disruption than aircraft that briefly pass directly over or to the side of whales (Richardson and Würsig, 1997).

Aircraft are explicitly cited by NMFS as a potential instrument of take under the MMPA regulations, which state that take can include "the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal" (50 CFR 216.3). Other regulations and notices have interpreted approach to humpback whales by aircraft in Hawaii as a form of harassment. Current approach regulations promulgated under the ESA (50 CFR 224.103; regulations that will no longer apply upon the effective date of the ESA humpback whale listing final rule) and in the HIHWNMS (15 CFR 922.184) restrict operating aircraft within 1,000 feet (304.8 m) of humpback whales in Hawaii and Sanctuary waters. A response to a comment in the November 23, 1987, interim rule "Approaching Humpback Whales in Hawaiian Waters" further clarified the restricted area around the whale to aircraft as "a 1,000 foot aerial dome over a whale" (52 FR 44912). This 1,000 foot perimeter was implemented in the final rule humpback whale approach rule on January 19, 1995 (60 FR 3775).

Regions outside Hawaii have also implemented aircraft operations near whales or other marine mammals, supporting the widely-accepted need to protect whales from this type of disturbance. Approach regulations for North Atlantic right whales published on February 13, 1997, restrict approach by aircraft conducting whale watching activities within 500 yards (457.2 m) of a whale, and require aircraft to take a course away from the whale and immediately leave the area at a constant airspeed if within 500 yards (457.2 m) (50 CFR 224.103(c)). It is also prohibited to fly motorized aircraft at less than 1,000 feet (304.8 m) over marine mammals in the Channel Islands National Marine Sanctuary (15 CFR 922.71), the Greater Farallones National Marine Sanctuary (15 CFR 922.82), or in specified regions of the Monterey Bay National Marine Sanctuary (15 CFR 922.132). Approach regulations for all cetaceans in Australia require that helicopters do not approach within 500 m and all other aircraft do not approach within 300 m (National Parks and Wildlife Amendment (Marine Mammals) Regulation 2006 (Cth) No. 271 (57)). New Zealand has similar rules for approaching wildlife, in that it is unlawful to operate aircraft from a horizontal distance of 150 m from any marine mammal, 200 m from any baleen or sperm whale mother-calf pair, and 300 m from any marine mammal if three or more vessels or aircraft are already positioned to enable passengers to watch the animals (Marine Mammals Protection Regulations 1992 s 18(g, h) and s 19(d)).

Human-Related Noise

Humans introduce sound intentionally and unintentionally into the marine environment for navigation, oil and gas exploration and acquisition, research, military activities, and many other reasons. Noise exposure can result in a range of impacts to whales, from little or none to severe, depending on the source, level, distance between the source and the receptor, characteristics of the animal (*e.g.*, hearing sensitivity, behavioral context, age, sex, and previous experience with sound source), time of day or season, and various other factors. In marine mammal populations, noise can seriously disrupt communication, navigational ability, and social patterns. Humpback whales use sound to communicate, navigate, locate prey, and sense their environment. Both anthropogenic and natural sounds may cause interference with these functions.

Understanding the specific impacts of sounds on humpback whales is difficult. However, it is clear that the geographic scope of potential impacts is vast as low-frequency sounds can travel great distances under water, and these sounds have the potential to reduce the space that whales use for communication (*i.e.*, communication space). For example, shipping was predicted to reduce communication space of singing humpback whales in the northeastern United States by eight percent (Clark *et al.*, 2009). Other detrimental effects of anthropogenic noise include masking and possible temporary threshold shifts. Masking results when noise interferes with cetacean social communication, which may range greatly in intensity and frequency. Some adjustment in acoustic behavior is thought to occur in response to masking. For instance, humpback whale songs were found to lengthen during low-frequency active sonar activities (Miller *et al.*, 2000). This altered song length persisted two hours after the sonar activities stopped (Fristrup *et al.*, 2003). Researchers have also observed diminished song vocalizations in humpback whales during remote sensing experiments 200 km away from the whales' location in the Stellwagen Bank National Marine Sanctuary (Risch *et al.*, 2012). Hearing loss can also be permanent if the sound is intense enough, although effects vary greatly across individuals. This and other factors make it difficult to determine a standardized threshold. Humpback whales do not appear to be frequently involved in strandings related to noise events. However, there is one record of two whales found dead with extensive damage to the temporal bones near the site of a 5,000 kg explosion that likely produced shock waves responsible for the injuries (Ketten *et al.*, 1993; Weilgart, 2007).

Humpback whales in Hawaii are likely exposed to moderate levels of underwater noise resulting from human activities, which include commercial and recreational vessel traffic, pile driving from coastal construction, and activities in Naval test ranges. Boat noise might affect humpback whale singing behavior by altering the rhythm or increasing the tempo of songs (Norris, 1994). Noise is also the likely major contributor of reported behavioral changes of humpback whales in Hawaii with regard to aircraft disturbance (Shallenberger, 1978; Tinney, 1988; Atkins and Swartz, 1989; Smultea *et al.*, 1995). Overall, population-level effects of exposure to underwater noise in Hawaii are not well established, but exposure is likely chronic. As vessel traffic and other in-water activities are expected to increase in Hawaii, the level of this threat is also expected to increase.

Increase in Human-Whale Interactions as Both Populations Increase

The humpback whale population in Hawaii is increasing (Darling *et al.*, 1983; Baker and Herman, 1987; Calambokidis *et al.*, 1997; Cerchio 1998; Mobley *et al.*, 2001; Calambokidis *et al.*, 2008). The human population is also increasing (U.S. Census, 2015). As both populations increase, the probability of humans interacting with humpback whales in Hawaii will likely increase. Increasing numbers of humpback whales in Hawaii also increase the likelihood of encountering whales outside the HIHWNMS, in areas where whales would not have the benefit of continued protection from approach if not ESA-listed. Current ESA approach restrictions (which will no longer be in effect upon the effective date of the ESA listing rule) limit opportunities to lawfully approach humpback whales, thus establishing a safe perimeter around whales. If whales are not protected by approach restrictions, this would erase this perimeter and increase the danger attributed to being in proximity to whales. With an increasing humpback whale population in Hawaii, eliminating approach regulations is a cause for concern with regard to both human and whale safety.

As a result of human population growth and demand for new products and tourist destinations, ocean recreation in Hawaii is increasing. The value of the tour boat industry has increased by 300 percent from 1984 to 2003 (Markrich, 2004). Whale watching has also increased in recent years from 52 operators in 1999 to an estimated 117 companies currently offering tours specific to whale watching (Hoyt, 2002; Internet search, February 2016).

As the number of people, tourism, and ocean-based activities increases in Hawaii, the number of interactions between humans and humpback whales is also likely to increase. If humpback whales are not protected by approach regulations in Hawaii, unrestricted access to whales outside the HIHWNMS would likely result in more encounters with commercial whale watching and recreational vessels, thus resulting in increased take of whales, while placing the safety of both humans and whales in jeopardy.

Public Comments and Public Hearings

We are soliciting comments on this interim final rule and the supporting Environmental Assessment (see **ADDRESSES**). No public hearings have been scheduled but public hearings can be requested. Requests for public hearings must be made in writing (see **ADDRESSES**) by October 11, 2016. If a public hearing is requested, a notice detailing the specific hearing location and time will be published in the **Federal Register** at least 15 days before the hearing is to be held. Information on the specific hearing locations and times will also be posted on our Web site at: *http://www.fpir.noaa.gov/PRD/prd_humpback.html.*

References Cited

A complete list of all references cited in this interim final rule can be found at *http://www.fpir.noaa.gov/PRD/prd_humpback.html* or *www.regulations.gov,* and is available upon request from the NMFS Pacific Islands Regional Office in Honolulu, HI (see **FOR FURTHER INFORMATION**).

Classification

National Environmental Policy Act (NEPA)

NMFS has prepared an Environmental Assessment pursuant to NEPA (42 U.S.C. 4321 *et seq.*) to support this rule. The Environmental Assessment contains an analysis of two no action alternatives and two action alternatives. There are a number of elements that were common to both of the action alternatives analyzed, including the preferred alternative described in this document and a number of exceptions that would apply to these alternatives. The Environmental Assessment is available for review and comment on the NMFS Pacific Islands Region Web site at *http://www.fpir.noaa.gov/PRD/prd_humpback.html.*

Executive Order 12866

This interim final rule has been determined to be not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

The purpose of the Paperwork Reduction Act is to minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, and other persons resulting from the collection of information by or for the Federal government. The interim final rule includes no new collection of information, so further analysis is not required.

Coastal Zone Management Act

NMFS has determined that this rule will be implemented in a manner consistent, to the maximum extent practicable, with the enforceable policies of the approved coastal zone management program of the State of Hawaii. The consistency determination has been submitted for review to the responsible State agency under section 307(c)(1) of the Federal Coastal Zone Management Act of 1972.

Executive Order 13132, Federalism

Executive Order 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific directives for consultation in situations in which a regulation will preempt state law or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this interim final rule; therefore this action does not have federalism implications as that term is defined in E.O. 13132.

Information Quality Act (IQA)

Pursuant to Section 515 of Public Law 106–554 (the Information Quality Act), this information product has undergone a pre-dissemination review by NMFS. The signed Pre-dissemination Review and Documentation Form is on file with the NMFS Pacific Islands Regional Office (see **ADDRESSES**).

Regulatory Flexibility Act

This interim final regulation is exempt from the requirements of the Regulatory Flexibility Act because NMFS has determined that notice and public comment would be impracticable and against the public interest.

Administrative Procedure Act

There is good cause to waive the prior notice and public comment requirement of the Administrative Procedure Act, and make this rule effective immediately upon publication in the **Federal Register**. This rule would prohibit the approach of humpback whales by aircraft within a 1,000 feet (304.8 m) and by any means within 100 yards (91.4 m), including to cause a vessel, person or other object to approach within 100 yard (91.4 m), and approach a whale by interception (placing an aircraft, vessel, person or other object in the path of a humpback whale so that the whale approaches within 1000 feet of the aircraft or 100 yards of the vessel, person or object). Approach regulations reflecting the above prohibitions have existed in Hawaii for 29 years, except the interception and exceptions provisions are new. Further, NMFS published in the **Federal Register** a proposed revision to the humpback listing in April 15, 2015 and, as dicussed above, requested comments on whether approach regulations under the MMPA should be considered if the proposed Hawaii DPS is finalized, as this DPS would no longer be listed or protected under ESA regulations.

Unregulated approach of humpback whales in Hawaii by aircraft, vessel, persons, or other means would likely lead to increased take of humpback whales. Upon the effective date of the ESA listing final rule, there will be a lapse in protections for the Hawaii DPS of humpback whales if these approach regulations under the MMPA are not in place. Because we have an obligation to uphold the regulatory objectives of the MMPA, and leaving humpback whales in Hawaii without approach regulations would result in increased take and consequent noncompliance with the statute, NMFS finds it impracticable and contrary to the public interest to have prior notice and comment.

For the reasons stated above, NMFS believes protections for Hawaii humpback whales are necessary and appropriate during the time the ESA listing determination becomes effective and the humpback whales begin to return to waters surrounding Hawaii in September.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Marine mammals.

Dated: August 30, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for 50 CFR part 216 continues to read as follows:

Authority: 16 U.S.C. 1361, *et seq.*, unless otherwise noted.

■ 2. In subpart B of part 216, add § 216.19 to read as follows:

§ 216.19 Special restrictions for humpback whales in waters surrounding the islands of Hawaii.

(a) *Prohibitions.* Except as noted in paragraph (b) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of the islands of Hawaii, any of the following acts with respect to humpback whales (*Megaptera novaeangliae*):

(1) Operate any aircraft within 1,000 feet (304.8 m) of any humpback whale;

(2) Approach, by any means, within 100 yards (91.4 m) of any humpback whale;

(3) Cause a vessel, person, or other object to approach within 100 yards (91.4 m) of a humpback whale;

(4) Approach a humpback whale by interception (*i.e.,* placing an aircraft, vessel, person, or other object in the path of a humpback whale so that the whale approaches within 1,000 feet (304.8 m) of the aircraft or 100 yards (91.4 m) of the vessel, person, or object); or

(5) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movements; or the abandonment of a previously frequented area.

(b) *Exceptions.* The prohibitions of paragraph (a) of this section do not apply to:

(1) Federal, State, or local government vessels or persons operating in the course of their official duties such as law enforcement, search and rescue, or public safety;

(2) Vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment;

(3) Vessels restricted in their ability to maneuver, and because of this restriction are not able to comply with approach restrictions; or

(4) Vessels or persons authorized under permit or authorization issued by NMFS to conduct scientific research or response efforts that may result in taking of humpback whales.

(c) *Affirmative defense.* (1) In connection with any action alleging a violation of this section, any person claiming the benefit of any exemption, exception, or permit listed in paragraph (b) of this section has the burden of proving that the exemption or exception is applicable, or that the permit was granted and was valid and in force at the time of the alleged violation.

(2) [Reserved]

[FR Doc. 2016–21277 Filed 9–6–16; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216, 223, and 224

[Docket No. 150727648–6720–01]

RIN 0648–BF31

Technical Amendments and Recodification of Alaska Humpback Whale Approach Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: We, NMFS, are making technical amendments to and recodifying Alaska humpback whale approach regulations within the Code of Federal Regulations (CFR) with only minor, technical revisions. Specifically, we are recodifying the regulations that apply to "Endangered Marine and Anadromous Species" so that they also appear in "Threatened Marine and Anadromous Species". This action is necessary to reflect the change in the Endangered Species Act (ESA) listing status of humpback whales, whereby some populations of humpback whales will now be classified as endangered species and one will be classified as a threatened species. In addition, we are adding the Alaska approach regulations to the regulations governing the taking and importing of marine mammals under the Marine Mammal Protection Act (MMPA) to clarify that protections are in effect for all humpback whales that may occur in or transit through the waters surrounding Alaska, including those that are not ESA-listed. This clarification reflects that the approach regulations were originally adopted under the MMPA as well as the ESA. We are also making minor changes to the language of the existing regulations to modernize language and update citations to relevant authorities.

DATES: This final rule is effective October 11, 2016.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 31, 2001, we issued a final rule (66 FR 29502) applicable to waters within 200 nautical miles (370 km) of Alaska that made it unlawful for a person subject to the jurisdiction of the United States to (a) approach within 100 yards (91.4 m) of a humpback whale, (b) cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale, or (c) disrupt the normal behavior or prior activity of a whale. The regulations also require vessels to operate at a slow, safe speed when near a humpback whale. These regulations are set forth at 50 CFR 224.103(b) (2015). When the provisions were adopted, we cited MMPA section 112(a) and ESA section 11(f) as authority (16 U.S.C. 1382(a); 16 U.S.C. 1540(f)). However, because the humpback whale was listed as endangered throughout its range, the approach restrictions were codified only in part 224 of the ESA regulations (which applies to "Endangered Marine and Anadromous Species").

On April 21, 2015, we proposed to revise the species-wide ESA listing of the humpback whale by recognizing fourteen distinct population segments (DPSs), two of which would be listed as endangered species (Cape Verde Islands/Northwest Africa and Arabian Sea DPSs) and two as threatened species (Western North Pacific and Central America DPSs) (80 FR 22303). In that proposed ESA listing rule, we concluded that the remaining ten DPSs were not endangered or threatened throughout all or a significant portion of their ranges and therefore did not propose to list them. Following consideration of information received through the public comment period on the proposed ESA listing rule, including public hearings, we are separately publishing in today's issue of the **Federal Register** a final rule implementing the revised listing determinations for humpback whales. Under that ESA listing final rule, we are listing one of the fourteen DPSs as a threatened species (the Mexico DPS), and four DPSs as endangered species (the Arabian Sea DPS, the Cape Verde Islands/Northwest Africa DPS, the Central America DPS, and the Western North Pacific DPS).

As a result of the final humpback whale ESA listing rule, maintaining the Alaska approach regulations only within their the original location in the Code of Federal Regulations (CFR) is no longer appropriate. This is because, while some humpback whales that spend part of the year in Alaskan waters remain listed as endangered (those that are members of the Western North Pacific DPS), others are now listed as threatened (those that are members of the Mexico DPS) or are not listed (those that are members of the Hawaii DPS). All protections of section 9 of the ESA, including the prohibitions against "take" in 16 U.S.C. 1538(a)(1)(B)–(C), are being extended to the threatened humpback whales as part of the final ESA listing rule (50 CFR 223.213). The ESA listing reclassifications thus require recodifying the approach regulations that currently appear in part 224 (which pertains only to endangered species) so that they also appear in part 223 (which pertains to threatened species) to ensure it is clear that humpback whales listed as threatened or endangered under the ESA are protected from approach in Alaska.

Accordingly, concurrently with finalizing the humpback whale reclassification under the ESA, we are, through this final rule, recodifying the Alaska approach regulations that currently appear in § 224.103(b) so that they also appear in § 223.214 for the protection of listed humpback whales occurring in the waters surrounding Alaska. These include whales from the Western North Pacific DPS (endangered) and Mexico DPS (threatened), as specified in the final ESA listing rule. The approach regulations have been in effect for 15 years and are important in light of the potential impacts posed by the whale watching industry, recreational boating community, and other maritime users.

In addition, we are also setting forth the Alaska approach regulations in part 216, which contains regulations regarding the taking and importing of marine mammals under the MMPA (50 CFR 216.18). Because the approach regulations were adopted in part under the authority of the MMPA, this represents a technical change only. Setting the regulations out clearly in this part of the CFR will clarify that all humpback whales that may occur in or transit through the waters surrounding Alaska are protected from approach, not just those that are ESA-listed, and reflects that the regulations were originally adopted under MMPA as well as ESA authority.

These three regulations (50 CFR 224.103(b), 223.214, and 216.18) work together to provide seamless protection to humpback whales that occur in the waters surrounding Alaska. While the ESA rules only apply to humpback whales listed as endangered or threatened species under the ESA (currently, only the Western North Pacific DPS and the Mexico DPS), the MMPA protections apply to all humpback whales in the specified geographic area (including the Hawaii DPS that is not listed). The provisions set forth under these authorities are substantively identical, so vessel operators will need to continue to exercise the same caution with regard to all humpback whales, as the current regulations have long required.

Recodifying these longstanding provisions so they appear both in 50 CFR parts 223 and 224, and setting them out clearly in part 216, represents a technical change only. The substantive provisions and the authority for their adoption are unchanged. The only changes to the regulations as compared to the existing provisions have been technical corrections and adjustments, including:

- Inserting the word "endangered" in front of "humpback whales" in the heading and in the main sections of text of the existing ESA-based regulation in § 224.103(b) to reflect that it does not apply to all humpback whales;
- Inserting the word "threatened" in front of "humpback whales" in the heading and in the main sections of text of the new ESA-based regulation in § 223.214 to reflect that it does not apply to all humpback whales;
- Adjusting the numbering of subsections to fit the new locations in § 216.18 and § 223.214;
- Directly incorporating the description of disruption of normal behavior or prior activity of a whale from § 224.103(a)(4) (2015) (a cross-referenced provision within the approach regulations protecting whales in Hawaii, which will no longer be in effect upon finalization of the revisions to the ESA listing status of humpback whales) into the regulations in § 216.18(a)(3), § 223.214(a)(3), and § 224.103(b)(1)(iii);
- Updating language by changing "her" to "its" in the phrase "to the extent that a vessel is restricted in her ability to maneuver. . . ." in § 216.18(b)(2), § 223.214(b)(2), and § 224.103(b)(2)(ii);
- In the provisions being set out at part 216, tailoring the reference to applicable permit procedures to refer to the relevant MMPA permit procedures (which are contained in subpart D of part 216);
- In 50 CFR 224.103(b)(3), updating a reference to a safe speed rule formerly set out at 33 U.S.C. 2006. This is necessary because the safe speed rule is now set out in regulations from the Department of Homeland Security at 33 CFR 83.06. These regulations were adopted in 2010 pursuant to the Coast Guard and Maritime Transportation Authorization Act of 2004 (Pub. L. 108–293, sec. 303, 118 Stat. 1028 (2004)), which directed that such final regulations would replace sections 2001–2038 of Title 33 of the United States Code. *See* 33 U.S.C. 2071 (codifying sec. 303(b)); 75 FR 19544 (April 15, 2010), 79 FR 37898 (July 2, 2014); and
- In 50 CFR 224.103(b)(2)(vi), updating a reference to special regulations for Glacier Bay National Park and Preserve formerly set out at 36 CFR 13.65. This is necessary because the special regulations applicable within Glacier Bay National Park and Preserve, including vessel operating restrictions to protect whales, were reorganized in 2006 and are now set out in regulations from the Department of the Interior at 36 CFR 13.1102–13.1188. *See* 71 FR 69328 (Nov. 30, 2006).

We solicited public comments in the proposed ESA listing rule (80 FR 22303, April 21, 2015) regarding relocation of the Alaska approach regulations. *See* 80 FR at 22354. At the time of the proposed listing rule, we did not expect that there would be any endangered DPSs present in Alaska and so sought comment as to whether we should relocate them from part 224 to part 223 (setting out ESA regulations applicable to "Threatened Marine and Anadromous Species") and also as to whether we should set them out in part 216 as MMPA regulations. Because we are now listing the Western North Pacific DPS as endangered, we will retain the approach regulations under the ESA at 50 CFR 224.103, and because we are listing the Mexico DPS as threatened, we will also add the provisions to part 223 at 50 CFR 223.214.

The State of Alaska was the only commenter that specifically addressed approach regulations in Alaska. The State supported retaining approach regulations in U.S. waters in Alaska because of the conservation benefits to ESA-listed and non-listed humpback whales that frequent Alaska waters. We therefore promulgate a final rule effecting a technical correction and recodification that recodifies these provisions so that they appear in both parts 223 and 224 and also setting the provisions out in part 216 (MMPA Regulations) at 50 CFR 216.18, to reflect that these provisions were originally adopted under the MMPA as well as the ESA and are an important source of protection for these marine mammals.

Classification

NMFS finds that good cause exists, under the Administrative Procedure Act, for adopting these rule changes as a final rule without stand-alone public notice and comment. *See* 5 U.S.C. 553(b)(B). As noted above, public comments on this action were solicited in the proposed ESA listing rule (80 FR 22303, April 21, 2015) and have been fully considered both for this technical regulation and in the context of the development of the final ESA listing rule. We find that additional notice and public procedure on this technical final rule is unnecessary because no substantive modifications are being made to the regulations being recodified so that they appear both in 50 CFR part 224 and 50 CFR part 223 and set out in 50 CFR part 216. All of the changes are technical, including the change to the language at § 224.103(b)(1)(iii) (which now sets out a definition directly in the text that was previously cross-referenced, as noted above). Consequently, the final rule does not alter the rights or responsibilities of any party. Additionally, delaying implementation of this rule for a separate public notice and comment period would be contrary to the public interest because it would create a lapse in necessary protections for the humpback whales that transit through Alaskan waters.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, NMFS has not submitted any information to the Office of Management and Budget for review.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. This action affects owner-operator whale watch businesses, eco-tourism companies (mostly local kayak tour businesses), and owner-operator fishing enterprises.

This action is a technical change to update the provisions and recodify them so they appear at both 50 CFR part 224 (which applies to "Endangered Marine and Anadromous Species") and 50 CFR part 223 (which applies to "Threatened Marine and Anadromous Species"). Additionally, when the Alaska provisions were adopted, we cited section 112(a) of the MMPA in addition to section 11(f) of the ESA as authority (16 U.S.C. 1382(a); 16 U.S.C. 1540(f)). However, because the humpback whale was listed throughout its range as endangered, the rule was codified only in part 224. Setting out the regulations in a new section, § 223.214, is necessary in order to continue the protection of threatened humpback whales, in addition to the endangered humpback whales, in Alaska. We are also setting out these provisions in 50 CFR part 216, for the protection of all humpback whales that may occur or transit through the waters surrounding Alaska, to reflect that these provisions were adopted under the MMPA as well as the ESA and are an important source of protection for these marine mammals. These provisions have been in effect for 15 years and are important in light of the potential impacts posed by the whalewatching industry, recreational boating community, and other maritime users. These provisions are merely being recodified within the CFR to continue existing protections in light of revisions to the ESA listing status of humpback whales.

Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

NMFS analyzed this rule under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and NOAA's Administrative Orders (NAO) 216–6A and 216–6. NMFS determined that this action satisfies the standards for reliance upon a categorical exclusion under NAO 216–6 § 6.03c.3(i) for "policy directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature." NAO 216–6, § 6.03c.3(i). The rule would not trigger an exception precluding reliance on the categorical exclusion because it does not involve a geographic area with unique characteristics, is not the subject of public controversy based on potential environmental consequences, will not result in uncertain environmental impacts or unique or unknown risks, does not establish a precedent or decision in principle about future proposals, will not have significant cumulative impacts, and will not have any adverse effects upon endangered or threatened species or their habitats. *Id.* § 5.05c. As such, it is categorically excluded from the need to prepare an Environmental Assessment. In addition, NMFS finds that because this rule will not result in any effects to the physical environment, much less any adverse effects, there would be no need to prepare an Environmental Assessment even aside from consideration of the categorical exclusion. *See Oceana, Inc.* v. *Bryson,* 940 F. Supp. 2d 1029 (N.D. Cal. 2013). Issuance of this rule does not alter the legal and regulatory status quo in such a way as to create any environmental effects. *See Humane Soc. of U.S.* v. *Johanns,* 520 F. Supp. 2d. 8, 29 (D.D.C. 2007).

List of Subjects

50 CFR Part 216

Administrative practice and procedure, Marine mammals.

50 CFR Part 223

Threatened marine and anadromous species.

50 CFR Part 224

Endangered marine and anadromous species.

Dated: August 30, 2016.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 216, 223, and 224 are amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. In subpart B of part 216, add § 216.18 to read as follows:

§ 216.18 Approaching humpback whales in Alaska.

(a) *Prohibitions.* Except as provided under paragraph (b) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of Alaska, or within inland waters of the state, any of the acts in paragraphs (a)(1) through (a)(3) of this section with respect to humpback whales (*Megaptera novaeangliae*):

(1) Approach, by any means, including by interception (*i.e.,* placing a vessel in the path of an oncoming humpback whale so that the whale surfaces within 100 yards (91.4 m) of the vessel), within 100 yards (91.4 m) of any humpback whale;

(2) Cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale; or

(3) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.

(b) *Exceptions.* The following exceptions apply, but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(1) Paragraph (a) of this section does not apply if an approach is authorized by the National Marine Fisheries Service through a permit issued under subpart D of this part (Special Exceptions) or through a similar authorization.

(2) Paragraph (a) of this section does not apply to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply with paragraph (a) of this section.

(3) Paragraph (a) of this section does not apply to commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear. For purposes of this section, commercial fishing means taking or harvesting fish or fishery resources to sell, barter, or trade. Commercial fishing does not include commercial passenger fishing operations (*i.e.,* charter operations or sport fishing activities).

(4) Paragraph (a) of this section does not apply to state, local, or Federal government vessels operating in the course of official duty.

(5) Paragraph (a) of this section does not affect the rights of Alaska Natives under 16 U.S.C. 1539(e).

(6) This section shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.1102–13.1188 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

(c) *General measures.* Notwithstanding the prohibitions and exceptions in paragraphs (a) and (b) of this section, to avoid collisions with humpback whales, vessels must operate at a slow, safe speed when near a humpback whale. "Safe speed" has the same meaning as the term is defined in 33 CFR 83.06 and the International Regulations for Preventing Collisions at Sea 1972 (see 33 U.S.C. 1602), with respect to avoiding collisions with humpback whales.

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 3. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 4. In subpart B of part 223, add § 223.214 to read as follows:

§ 223.214 Approaching threatened humpback whales in Alaska.

(a) *Prohibitions.* Except as provided under paragraph (b) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of Alaska, or within inland waters of the state, any of the acts in paragraphs (a)(1) through (a)(3) of this section with respect to threatened humpback whales (*Megaptera novaeangliae*):

(1) Approach, by any means, including by interception (*i.e.,* placing a vessel in the path of an oncoming humpback whale so that the whale surfaces within 100 yards (91.4 m) of the vessel), within 100 yards (91.4 m) of any humpback whale;

(2) Cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale; or

(3) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.

(b) *Exceptions.* The following exceptions apply, but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(1) Paragraph (a) of this section does not apply if an approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(2) Paragraph (a) of this section does not apply to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply with paragraph (a) of this section.

(3) Paragraph (a) of this section does not apply to commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear. For purposes of this section, commercial fishing means taking or harvesting fish or fishery resources to sell, barter, or trade. Commercial fishing does not include commercial passenger fishing operations (*i.e.* charter operations or sport fishing activities).

(4) Paragraph (a) of this section does not apply to state, local, or Federal government vessels operating in the course of official duty.

(5) Paragraph (a) of this section does not affect the rights of Alaska Natives under 16 U.S.C. 1539(e).

(6) This section shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.1102–13.1188 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

(c) *General measures.* Notwithstanding the prohibitions and exceptions in paragraphs (a) and (b) of this section, to avoid collisions with threatened humpback whales, vessels must operate at a slow, safe speed when near a humpback whale. "Safe speed" has the same meaning as the term is defined in 33 CFR 83.06 and the International Regulations for Preventing Collisions at Sea 1972 (see 33 U.S.C. 1602), with respect to avoiding collisions with humpback whales.

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 5. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 6. Amend § 224.103 to revise the heading of paragraph (b), and paragraphs (b)(1) introductory text, (b)(1)(iii), (b)(2)(ii), (b)(2)(vi), and (b)(3) to read as follows:

§ 224.103 Special prohibitions for endangered marine mammals.

* * * * *

(b) *Approaching endangered humpback whales in Alaska*—(1) *Prohibitions.* Except as provided under paragraph (b)(2) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of Alaska, or within inland waters of the state, any of the acts in paragraphs (b)(1)(i) through (b)(1)(iii) of this section with respect to endangered humpback whales (*Megaptera novaeangliae*):

* * * * *

(iii) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.

(2) * * *

(ii) Paragraph (b)(1) of this section does not apply to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply with paragraph (b)(1) of this section.

* * * * *

(vi) Paragraph (b) of this section shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.1102–13.1188 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

(3) *General measures.* Notwithstanding the prohibitions and exceptions in paragraphs (b)(1) and (2) of this section, to avoid collisions with endangered humpback whales, vessels must operate at a slow, safe speed when near a humpback whale. "Safe speed" has the same meaning as the term is defined in 33 CFR 83.06 and the International Regulations for Preventing Collisions at Sea 1972 (see 33 U.S.C. 1602) with respect to avoiding collisions with humpback whales.

* * * * *

[FR Doc. 2016–21278 Filed 9–6–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 174
Thursday, September 8, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9068; Directorate Identifier 2016–NM–067–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–300, –400, and –500 series airplanes. This proposed AD was prompted by reports of cracks in horizontal stabilizer lower skins. This proposed AD would require repetitive inspections for cracking of the horizontal stabilizer lower skin, and corrective actions if necessary. This proposed AD also provides actions that would terminate certain repetitive inspections. We are proposing this AD to detect and correct cracks in horizontal stabilizer lower skins resulting in reduced local stiffness of the horizontal stabilizer, which can cause heavy vibration leading to loss of structural integrity of the horizontal stabilizer.

DATES: We must receive comments on this proposed AD by October 24, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9068.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9068; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Gaetano Settineri, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *gaetano.settineri@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9068; Directorate Identifier 2016–NM–067–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of approximately 90 cracks in horizontal stabilizer lower skins with most of them occurring between stabilizer station (SSTA) 111.10 and 166.30. Ten operators reported cracks on 18 airplanes outside this range with 14 of them inboard of SSTA 111.10. The cracks range in length from 0.25 inch to 3.75 inches, and the airplanes had between 12,670 and 69,569 total flight cycles.

The cracks started on the outer surface of the horizontal stabilizer lower skin where the chem-milled edge aligns with the edge of the lower flange of the rear spar. The cracks grew parallel to the rear spar. High secondary bending stresses due to compression buckling of the skins and sonic fatigue can cause the cracks to grow. Cracks have also started from the fastener line nearest the chem-milled step.

This horizontal stabilizer lower skin cracking, if not corrected, could result in reduced local stiffness of the horizontal stabilizer, which can cause heavy vibration leading to loss of structural integrity of the horizontal stabilizer.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 737–55–1059, Revision 1, dated April 6, 2016 ("SASB 737–55–1059 R1"). The service information describes procedures for doing inspections of the horizontal stabilizer lower skin, and repairs. The service information also describes procedures for doing actions that would terminate certain repetitive inspections. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between this Proposed AD and the Service Information. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9068.

The phrase "related investigative actions" is used in this proposed AD. Related investigative actions are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase "corrective actions" is used in this proposed AD. Corrective actions correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between This Proposed AD and the Service Information

SASB 737–55–1059 R1, specifies to contact the manufacturer for certain instructions, but this proposed AD would require accomplishment of repair methods, modification deviations, and alteration deviations in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 270 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	4 work-hours × $85 per hour = $340 per inspection cycle.	$0	$340 per inspection cycle	$91,800 per inspection cycle.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification	Up to 51 work-hours per stabilizer × $85 per hour = $4,335	$721	Up to $5,056 per stabilizer.

We estimate the following costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Skin slice repair	Up to 438 work-hours × $85 per hour = $37,230	$0	Up to $37,230.
External doubler repair	26 work-hours × $85 per hour = $2,210	$0	$2,210.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–9068; Directorate Identifier 2016–NM–067–AD.

(a) Comments Due Date

We must receive comments by October 24, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–55–1059, Revision 1, dated April 6, 2016 ("SASB 737–55–1059 R1").

(d) Subject

Air Transport Association (ATA) of America Code 55; Horizontal stabilizer.

(e) Unsafe Condition

This AD was prompted by reports of cracks in horizontal stabilizer lower skins. We are issuing this AD to detect and correct cracks in horizontal stabilizer lower skins resulting in reduced local stiffness of the stabilizer, which can cause heavy vibration leading to loss of structural integrity of the horizontal stabilizer.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspections, Related Investigative Actions, and Corrective Actions for Group 1, Configuration 1 Airplanes

For Group 1, Configuration 1 airplanes, as identified in SASB 737–55–1059 R1: Except as specified in paragraph (i)(1) of this AD, at the applicable time specified in paragraph 1.E., "Compliance," of SASB 737–55–1059 R1, do a detailed inspection for cracking of the horizontal stabilizer lower skin; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of SASB 737–55–1059 R1, except as specified in paragraph (i)(2) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspection of the horizontal stabilizer lower skin, if applicable, thereafter at the applicable intervals specified in paragraph 1.E., "Compliance," of SASB 737–55–1059 R1. Options specified in SASB 737–55–1059 R1, for accomplishing the inspections are acceptable for the corresponding requirements of this paragraph provided that the inspections are done at the applicable times in paragraph 1.E., "Compliance," of the SASB 737–55–1059 R1.

(h) Inspections, Related Investigative Actions, and Corrective Actions for Group 1, Configuration 2 Airplanes

For Group 1, Configuration 2 airplanes, as identified in SASB 737–55–1059 R1: Except as specified in paragraph (i)(1) of this AD, at the applicable time specified in paragraph 1.E., "Compliance," of SASB 737–55–1059 R1, do the actions specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of SASB 737–55–1059 R1, except as specified in paragraph (i)(2) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspections specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, if applicable, thereafter at the applicable intervals specified in paragraph 1.E., "Compliance," of SASB 737–55–1059 R1. Options specified in SASB 737–55–1059 R1, for accomplishing the inspections are acceptable for the corresponding requirements of this paragraph provided that the inspections are done at the applicable times in paragraph 1.E., "Compliance," of SASB 737–55–1059 R1.

(1) Do a high frequency eddy current inspection for cracking of the skin around any repair done as specified in the structural repair manual or any external doubler repair, and a detailed inspection for any loose or any missing fastener of repaired doublers.

(2) Do a detailed inspection for cracking of the inspar lower skin of the horizontal stabilizer in unrepaired areas.

(3) Do a low frequency eddy current inspection for cracking of the forward fastener row of any external doubler repair.

(i) Service Information Exceptions

(1) Where SASB 737–55–1059 R1, specifies a compliance time "after the Revision 1 date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) If any cracking, corrosion, hole elongation, or loose or missing fastener is found during any inspection required by this AD, and SASB 737–55–1059 R1, specifies to contact Boeing for repair instructions: Before further flight, repair the cracking, corrosion, hole elongation, loose or missing fasteners using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Gaetano Settineri, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *gaetano.settineri@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21148 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9056; Directorate Identifier 2016–NM–007–AD]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. This proposed AD was prompted by an occurrence that was reported of rudder pedal restriction on a SAAB Model 2000 airplane with the large potable water system (LPWS) installed, equipped with in-line heaters.

This proposed AD would require installation of shrinkable tubes on the water piping of the basic potable water system (BPWS). We are proposing this AD to prevent water spray in case of a failed pipe or coupling during water filling on the ground. This condition, if not corrected, could freeze parts of the flight control system possibly resulting in reduced control of the airplane.

DATES: We must receive comments on this proposed AD by October 24, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.tech support@saabgroup.com;* Internet *http://www.saabgroup.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9056; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112 ; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9056; Directorate Identifier 2016–NM–007–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0013, dated January 14, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. The MCAI states:

> An occurrence was reported of rudder pedal restriction on a SAAB 2000 aeroplane with the Large Potable Water System (LPWS) installed, equipped with in-line heaters (options 38:201 and 38:201–1). Subsequent investigation showed that this event was the result of a ruptured in-line heater attachment, causing water leakage at the inlet tubing for the in-line heater in the lower part of the forward fuselage (Zone 116). In flight, the water froze on the rudder control mechanism, causing the rudder pedal restriction. Analysis after the reported event indicates that the pitch control mechanism (including pitch disconnect/spring unit) may also be frozen, which would prevent disconnection and normal pitch control.
>
> This condition, if not corrected, could result in further occurrences of water spray, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, EASA issued Emergency AD 2013–0172–E, to require deactivation of the LPWS. Following that, EASA AD 2013–0172R1 introduced a temporary alternative procedure for filling, reactivation and operation of the LPWS.
>
> Finally, EASA AD 2014–0255 was issued, superseding EASA AD 2013–0172R1, to require a modification allowing reactivating of the system and the use of regular filling procedures.
>
> Although the Basic Potable Water System (BPWS) does not contain an in-line heater, which was the major risk contributor and the actual cause of the previous leakage events in the LPWS, a Zonal Safety Analysis performed by SAAB concluded that the implementation of spray shield (tube/hose) for the water piping is necessary for the BPWS as well, to protect the flight controls and electrical equipment from water spray in case of a failed pipe or coupling during water filling on ground.
>
> Consequently SAAB developed a modification and issued Service Bulletin (SB) 2000–38–012 to provide modification instructions to install shrinkable tubes as spray shields.
>
> For reasons described above, this [EASA] AD requires installation of shrinkable tubes on the water piping of the BPWS.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9056.

Related Service Information Under 1 CFR Part 51

Saab has issued Service Bulletin 2000–38–012, dated August 20, 2015. The service information describes how to install shrinkable tubes on the water piping of the BPWS. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 7 airplanes of U.S. registry.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $3,650 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $29,120 or $4,160 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Saab AB, Saab Aeronautics (formerly known as Saab AB, Saab Aerosystems): Docket No. FAA–2016–9056; Directorate Identifier 2016–NM–007–AD.

(a) Comments Due Date

We must receive comments by October 24, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to certain Saab AB, Saab Aeronautics (formerly known as Saab AB, Saab Aerosystems) Model SAAB 2000 airplanes, certificated in any category, serial numbers 017, 019 through 021 inclusive, 027 through 028 inclusive, 030, 034, 040, 050, and 052.

(d) Subject

Air Transport Association (ATA) of America Code 38, Water/waste.

(e) Reason

This AD was prompted by an occurrence that was reported of rudder pedal restriction on a SAAB Model 2000 airplane with the large potable water system (LPWS) installed, equipped with in-line heaters. We are issuing this AD to prevent water spray in case of a failed pipe or coupling during water filling on the ground. This condition, if not corrected, could freeze parts of the flight control system, possibly resulting in reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repair of Basic Potable Water System (BPWS)

Within 24 months after the effective date of this AD, install shrinkable tubes on the water piping of the BPWS, in accordance with the Accomplishment Instructions of SAAB Service Bulletin 2000–38–012, dated August 20, 2015.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch/ACO, send it to ATTN: Sharam Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112 ; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aerosystems' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0013, dated January 14, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9056.

(2) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21165 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9055; Directorate Identifier 2016–NM–071–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Model A300 F4–600R series airplanes. This proposed AD was prompted by the results of a full stress analysis of the lower area of a certain

frame that revealed a crack could occur in the forward fitting lower radius of a certain frame after a certain number of flight cycles. This proposed AD would require an inspection of the lower area of a certain frame radius for cracking, and corrective action if necessary. We are proposing this AD to detect and correct cracking in the forward fitting lower radius of a certain frame. Such cracking could reduce the structural integrity of the fuselage.

DATES: We must receive comments on this proposed AD by October 24, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9055; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9055; Directorate Identifier 2016–NM–071–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0085, dated April 28, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Model A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Airbus Model A300 F4–600R series airplanes. The MCAI states:

> Following a recently completed full stress analysis of the Frame (FR) 40 lower area, supported by a Finite Element Model (FEM), of the post-mod 10221 configuration, it was demonstrated that for the FR40 forward fitting lower radius, a crack could occur after a certain amount of flight cycles (FC).
>
> This condition, if not detected and corrected, could reduce the structural integrity of the fuselage.
>
> To address this potential unsafe condition, Airbus established that crack detection could be performed through a special detail inspection (SDI) using a high frequency eddy current (HFEC) method, and issued Alert Operators Transmission (AOT) A57W009–16.
>
> For the reasons described above, this AD requires a one-time SDI of the FR40 lower area and, depending on findings, accomplishment of applicable corrective action(s).

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9055.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Alert Operators Transmission—AOT A57W009–16, Rev 00, dated February 25, 2016, including Appendixes 1 and 2, both undated. The service information describes procedures for inspecting the forward fitting lower radius of FR40 for cracking and corrective action. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Clarification of Applicability

The MCAI lists Airbus Model A300 B4–622R airplanes twice in the applicability. We have discussed the applicability with EASA, and the second reference was a typographical error which should have been "Airbus Model A300 F4–622R airplanes." The applicability of this proposed AD will include Airbus Model A300 F4–622R airplanes.

Costs of Compliance

We estimate that this proposed AD affects 94 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255	$0	$255	$23,970

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Reporting	1 work-hour × $85 per hour = $85	$0	$85	$7,990

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2016–9055; Directorate Identifier 2016–NM–071–AD.

(a) Comments Due Date

We must receive comments by October 24, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, on which Airbus Modification 10221 was embodied in production.

(1) Airbus Model A300 B4–605R and B4–622R airplanes.

(2) Airbus Model A300 C4–605R Variant F airplanes.

(3) Airbus Model A300 F4–605R and F4–622R airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by the results of a full stress analysis of the lower area of frame (FR) 40 that revealed a crack could occur in the forward fitting lower radius of FR 40 after a certain number of flight cycles. We are issuing this AD to detect and correct cracking in the forward fitting lower radius of FR 40. Such cracking could reduce the structural integrity of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection

At the later of the compliance times specified in paragraphs (g)(1) and (g)(2) of this AD, do a high frequency eddy current inspection of the lower area of the FR 40 radius for cracking, in accordance with the procedures in Airbus Alert Operators Transmission—AOT A57W009–16, Rev 00, dated February 25, 2016, including Appendixes 1 and 2, both undated.

(1) Prior to exceeding 19,000 total flight cycles or 41,000 flight hours since the airplane's first flight, whichever occurs first.

(2) Within 300 flight cycles or 630 flight hours after the effective date of this AD, whichever occurs first.

(h) Corrective Action

If any crack is found during the inspection required by paragraph (g) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).../../MADGE 2015/Differences/contact_mfr_foreign.doc.

(i) Reporting Requirement

Submit a report of all findings (both positive and negative) from the inspection required by paragraph (g) of this AD to Airbus Customer Services through TechRequest on Airbus World (*https://w3.airbus.com/*) by selecting Engineering Domain and ATA 57–10.

(1) For airplanes on which the inspection specified in paragraph (g) of this AD is accomplished on or after the effective date of this AD: Submit the report within 30 days after performing the inspection.

(2) For airplanes on which the inspection specified in paragraph (g) of this AD is accomplished before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) Reporting Requirements: A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0085, dated April 28, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9055.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 22, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21166 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9058; Directorate Identifier 2016–NM–024–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD), for certain Fokker Services B.V. Model F28 Mark 0100 airplanes. This proposed AD was prompted by an analysis which determined that, for certain areas of the fuselage, the current threshold of an Airworthiness Limitations Section inspection is insufficient to detect early crack development. This proposed AD would require one time high and low frequency eddy current inspections of the affected fuselage skin for cracks and repair if necessary. We are proposing this AD to detect and correct cracks in the fuselage skin; such cracking could result in reduced structural integrity of the fuselage.

DATES: We must receive comments on this proposed AD by October 24, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88–6280–350; fax: +31 (0)88–6280–111; email: *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9058; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9058; Directorate Identifier 2016–NM–024–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive Airworthiness Directive 2016–0029, dated February 23, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Fokker Services B.V. Model F28 Mark 0100 airplanes. The MCAI states:

> Recently, a complementary fatigue and damage tolerance analysis was accomplished by the design approval holder on the traffic collision avoidance system (TCAS) antenna installation on the top of the fuselage between station (STA) 6805 and STA7305. Based on the results, it was determined that for the affected area, the current threshold of the Airworthiness Limitations Section inspection task 533001–00–20 (special detailed inspection of longitudinal lap joints) is insufficient to timely detect possible crack development.
>
> This condition, if not detected and corrected, could affect the structural integrity of the fuselage in this area.
>
> To address this potential unsafe condition, Fokker Services published Service Bulletin (SB) SBF100–53–130 to provide inspection instructions. For the reasons described above, this [EASA] AD requires a one-time inspection [high and low frequency eddy current inspections for cracks] of the fuselage skin around the largest TCAS antenna external doubler and of the longitudinal lap joint at stringer (STR) 37 between fuselage STA6805 and STA7305 [and repair if necessary. This [EASA] AD is considered to be an interim action and further [EASA] AD action may follow.
>
> More information on this subject can be found in Fokker Services All Operators Message AOF100.199.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9058.

Related Service Information Under 1 CFR Part 51

We reviewed Fokker Service Bulletin SBF100–53–130, dated December 01, 2015. This service information describes one-time high and low frequency eddy current inspections for cracks of the fuselage skin. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 8 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	$0	$85	$680

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Fokker Services B.V.: Docket No. FAA–2016–9058; Directorate Identifier 2016–NM–024–AD.

(a) Comments Due Date

We must receive comments by October 24, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F28 Mark 0100 airplanes, certificated in any category, serial numbers 11244 through 11407 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by an analysis which determined that, for certain areas of the fuselage, the current threshold of an

Airworthiness Limitations Section inspection is insufficient to detect early crack development. We are issuing this AD to detect and correct cracks in the fuselage skin; such cracking could result in reduced structural integrity of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection

Within the compliance time specified in paragraphs (g)(1) and (g)(2) of this AD, as applicable, do high and low frequency eddy current inspections for cracks in the fuselage skin around the largest traffic collision avoidance system (TCAS) antenna external doubler and of the longitudinal lap joint at fuselage stringer STR37 between fuselage station (STA) STA6805 and STA7305, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–130, dated December 01, 2015.

(1) For airplanes having 45,000 or more flight cycles as of the effective date of this AD, since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness: Do the high and low frequency eddy current inspections within 750 flight cycles after the effective date of this AD.

(2) For airplanes having 40,000 or more flight cycles, but less than 45,000 flight cycles as of the effective date of this AD, since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness: Do the high and low frequency eddy current inspections within 1,500 flight cycles after the effective date of this AD.

(h) Corrective Action

If any crack is found during any inspection required by paragraph (g) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM 116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA).

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Fokker Services B.V.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0029, dated February 23, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9058.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88–6280–350; fax: +31 (0)88–6280–111; email: *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com*. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21151 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9067; Directorate Identifier 2016–NM–043–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. This proposed AD was prompted by a report of incidents involving fatigue cracking in transport category airplanes that are approaching or have exceeded their design service objective and a structural reevaluation by the manufacturer that identified additional structural elements that qualify as structural significant items (SSIs). This proposed AD would require revising the maintenance or inspection program, as applicable, to include inspections that will give no less than the required damage tolerance rating (DTR) for certain SSIs, and repairing any cracked structure. This proposed AD would also require inspections to detect cracks of all SSI structure, and repair if necessary. We are proposing this AD to ensure the continued structural integrity of all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes.

DATES: We must receive comments on this proposed AD by October 24, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9067; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9067; Directorate Identifier 2016–NM–043–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On December 26, 2007, we issued AD 2004–07–22 R1, Amendment 39–15326 (73 FR 1052, January 7, 2008); corrected February 14, 2008 (73 FR 8589) ("AD 2004–07–22 R1"); for all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. AD 2004–07–22 R1 requires that the maintenance inspection program be revised to include inspections that will give no less than the required DTR for each SSI, and repair of cracked structure. AD 2004–07–22 R1 was prompted by a report of incidents involving fatigue cracking in transport category airplanes that are approaching or have exceeded their design service objective. We issued AD 2004–07–22 R1 to ensure the continued structural integrity of all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes.

Actions Since AD 2004–07–22 R1 Was Issued

Since we issued AD 2004–07–22 R1, a structural reevaluation by the manufacturer identified additional structural elements that qualify as SSIs. We have determined that supplemental inspections are required for timely detection of fatigue cracking for these additional structural elements.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013. The service information describes procedures for inspections to detect cracks of all structure identified as SSIs and includes six new SSIs since the last revision.

We also reviewed Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015. The service information describes procedures for inspections of wing, fuselage, and empennage SSIs for Model 747–400 LCF airplanes.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require revising the maintenance or inspection program, as applicable, to include inspections that will give no less than the required DTR for certain SSIs, and repairing any cracked structure. This proposed AD would also require inspections to detect cracks of all SSI structure, and repair if necessary.

This proposed AD does not supersede 2004–07–22 R1. However, accomplishing the revision specified in paragraph (h) of this proposed AD would terminate the requirements of paragraphs (f), (g), and (h) of AD 2004–07–22 R1. Also, doing an inspection specified in paragraph (i) of this proposed AD would terminate the corresponding inspection required by paragraph (i) of AD 2004–07–22 R1.

Costs of Compliance

We estimate that this proposed AD affects 118 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revision of maintenance or inspection program.	1 work-hour × $85 per hour = $85	$0	$85	$10,030

We have not specified cost estimates for the inspection and repair specified in this proposed AD. Compliance with this proposed AD constitutes a method of compliance with the FAA aging airplane safety final rule (AASFR) (70 FR 5518, February 2, 2005) for certain baseline structure of Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. The AASFR requires certain operators to incorporate damage tolerance inspections into their maintenance inspection programs. These requirements are described in 14 CFR 121.1109(c)(1) and 14 CFR 129.109(b)(1). Accomplishment of the actions specified in this proposed AD will meet the requirements of these regulations for certain baseline structure. The costs for accomplishing the inspection portion of this proposed AD were accounted for in the regulatory evaluation of the AASFR.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–9067; Directorate Identifier 2016–NM–043–AD.

(a) Comments Due Date

We must receive comments by October 24, 2016.

(b) Affected ADs

This AD affects AD 2004–07–22 R1, Amendment 39–15326 (73 FR 1052, January 7, 2008); corrected February 14, 2008 (73 FR 8589) ("AD 2004–07–22 R1").

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category.

Note 1 to paragraph (c) of this AD: A Model 747–400 LCF airplane is a Model 747–400 series airplane that has been modified from a passenger airplane to a freighter configuration as specified in Boeing Service Bulletin 747–00–2084.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage; 54, Nacelles/Pylons; 55, Stabilizers; 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report of incidents involving fatigue cracking in transport category airplanes that are approaching or have exceeded their design service objective and a structural reevaluation by the manufacturer that identified additional structural elements that qualify as structural significant items (SSIs). We are issuing this AD to ensure the continued structural integrity of all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definition of SSI

For the purposes of this AD, an SSI is defined as a principal structural element (PSE). A PSE is a structural element that contributes significantly to the carrying of flight, ground, or pressurization loads, and whose integrity is essential in maintaining the overall structural integrity of the airplane.

(h) Maintenance or Inspection Program Revision for All Airplanes

Prior to reaching the compliance thresholds specified in paragraph (i)(1)(i), (i)(2)(i), (j)(1)(i), or (j)(2)(i) of this AD, as applicable, or within 12 months after the effective date of this AD, whichever occurs later: Incorporate a revision into the maintenance or inspection program, as applicable, that provides no less than the required damage tolerance rating (DTR) for each SSI listed in the applicable service information specified in paragraph (h)(1) or (h)(2) of this AD. The revision to the maintenance or inspection program must include, and must be implemented in accordance with, the procedures in Section 5.0, "Damage Tolerance Rating (DTR) System Application," of Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; and Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015; as applicable. Accomplishing the revision required by this paragraph terminates the actions required by paragraphs (f), (g), and (h) of AD 2004–07–22 R1. After accomplishing the revision required by this paragraph, the revisions required by paragraphs (f), (g), and (h) of AD 2004–07–22 R1, as applicable, must be removed.

(1) For all airplanes except Model 747–400 LCF airplanes: SSIs listed in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013.

(2) For Model 747–400 LCF airplanes: SSIs listed in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; and SSIs listed in Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015. For SSIs listed in both Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015; and Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013: Incorporate the SSIs listed Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015.

(i) Inspection Compliance Times for All Model 747 Airplanes Except Model 747–400 LCF airplanes

For all Model 747 airplanes except Model 747–400 LCF airplanes: Perform inspections to detect cracks of all structure identified in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013, at the times specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD, as applicable. Once the initial inspection has been performed, in order to remain in compliance with the maintenance or inspection program, as required by paragraph (h) of this AD, repetitive inspections are required at the intervals specified in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013. Doing an inspection required by this paragraph terminates the corresponding inspection required by paragraph (i) of AD 2004–07–22 R1.

(1) For wing structure, except as provided by paragraph (i)(3) of this AD: Inspect at the times specified in paragraph (i)(1)(i) or (i)(1)(ii) of this AD, whichever occurs later.

(i) Within the applicable compliance time specified in paragraph (i)(1)(i)(A) or (i)(1)(i)(B) of this AD.

(A) For all Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes: Prior to the accumulation of 20,000 total flight cycles or 100,000 total flight hours, whichever occurs first.

(B) For all Model 747–400, 747–400D, and 747–400F series airplanes: Prior to the accumulation of 20,000 total flight cycles or 115,000 total flight hours, whichever occurs first.

(ii) Within 1,000 flight cycles or 12 months after the effective date of this AD, whichever occurs later.

(2) For all structure other than wing structure, except as provided by paragraph (i)(3) of this AD: At the time specified in paragraph (i)(2)(i) or (i)(2)(ii) of this AD, whichever occurs later.

(i) Prior to the accumulation of 20,000 total flight cycles.

(ii) Within 1,000 flight cycles or 12 months after the effective date of this AD, whichever occurs later.

(3) For any portion of an SSI that has been replaced with new structure: Inspect at the later of the times specified in paragraphs (i)(3)(i) and (i)(3)(ii) of this AD.

(i) At the time specified in paragraph (i)(1) or (i)(2) of this AD, as applicable.

(ii) Within 10,000 flight cycles after the replacement of the part with a new part.

(j) Inspection Compliance Times for Model 747–400 LCF Airplanes

For Model 747–400 LCF airplanes: Perform inspections to detect cracks of all structure identified in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; and Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015; at the times specified in paragraph (j)(1) or (j)(2) of this AD, as applicable. Once the initial inspection has been performed, in order to remain in compliance with the maintenance or inspection program, as required by paragraph (h) of this AD, repetitive inspections are required at the intervals specified in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; and Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015. Where SSIs are listed in both Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; and Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015; the SSIs listed in Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015, take precedence. Doing an inspection required by this paragraph terminates the corresponding inspection required by paragraph (i) of AD 2004–07–22 R1.

(1) For wing structure: Inspect at the times specified in paragraph (j)(1)(i) or (j)(1)(ii) of this AD, whichever occurs later.

(i) Prior to the accumulation of 20,000 total flight cycles or 115,000 total flight hours, whichever occurs first.

(ii) Within 1,000 flight cycles or 12 months after the effective date of this AD, whichever occurs later.

(2) For all structure other than wing structure: At the time specified in paragraph (j)(2)(i) or (i)(2)(ii) of this AD, whichever occurs later.

(i) At the earlier of the times specified in paragraphs (j)(2)(i)(A) and (j)(2)(i)(B) of this AD.

(A) Prior to the accumulation of 20,000 total flight cycles.

(B) Within the applicable initial compliance time specified in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; and Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015. Where SSIs are listed in both Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; and Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015; the SSIs listed in Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015, take precedence.

(ii) Within 1,000 flight cycles or 12 months after the effective date of this AD, whichever occurs later.

(k) Repair

If any cracked structure is found during any inspection required by paragraph (i) or (j) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(l) Inspection Program for Transferred Airplanes

Before any airplane that is subject to this AD and that has exceeded the applicable compliance times specified in paragraph (i) or (j) of this AD can be added to an air carrier's operations specifications, a program for the accomplishment of the inspections required by this AD must be established in accordance with paragraph (l)(1) or (l)(2) of this AD, as applicable.

(1) For airplanes that have been inspected as specified in this AD, the inspection of each SSI must be accomplished by the new operator using the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, at whichever time would result in the earlier accomplishment for that SSI inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been performed once, each subsequent inspection must be performed using the new operator's schedule and inspection method.

(2) For airplanes that have not been inspected as specified in this AD, the inspection of each SSI required by this AD must be accomplished either prior to adding the airplane to the air carrier's operations specification, or using a schedule and an inspection method approved by the Manager, Seattle Aircraft Certification Office (ACO). After each inspection has been performed once, each subsequent inspection must be performed using the new operator's schedule and inspection method.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 2004–07–22 R1 are approved as AMOCs for the corresponding provisions of paragraphs (h), (i), and (j) of this AD for the SSIs identified in the AMOC, except for any SSI that has an expanded inspection area identified in Boeing Document No. D6–35022, "Supplemental Structural Inspection Document for Model 747 Airplanes," Revision H, dated September 2013; or Boeing Document No. D6–35022–1, "747–400 LCF Supplemental Structural Inspection Document—Appendix A," dated November 2015.

(n) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21147 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9071; Directorate Identifier 2016–NM–019–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A318, A319, A320, and A321 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) which indicates that the main landing gear (MLG) does not comply with certification specifications, which could result in a locking failure of the MLG side stay. This proposed AD would require modification or replacement of certain MLG side stay assemblies. We are proposing this AD to prevent possible collapse of the MLG during takeoff and landing.

DATES: We must receive comments on this proposed AD by October 24, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425 227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9071; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9071; Directorate Identifier 2016–NM–019–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0018, dated January 19, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Model A318, A319, A320, and A321 series airplanes. The MCAI states:

> During studies for a new landing gear design, it was discovered that the single-locked upper and lower cardan joints of the MLG do not comply with the certification specifications of (CS), (formerly Joint Aviation Requirements (JAR)) Part 25.607.
>
> This condition, if not corrected, could lead to MLG side stay locking failure that, during take-off and landing, may result in damage to the aeroplane and detrimental effect on safe flight.
>
> To address this potential unsafe condition, the MLG manufacturer developed a modification to change the single-locked MLG joint into a double-locked one. This modification is available for in-service application through Messier-Bugatti-Dowty (MBD) Service Bulletin (SB) 200–32–315 or SB 201–32–63, or Airbus SB A320–32–1429.
>
> For the reasons described above, this [EASA] AD requires modification or replacement of the MLG side stay assemblies to introduce the double locking of the MLG upper and lower cardan joints.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9071.

Related Service Information Under 1 CFR Part 51

We have reviewed the following service information. The service information describes procedures for modifying the MLG side stay assembly.

- Airbus Service Bulletin A320–32–1429, dated September 10, 2015.
- Messier-Bugatti-Dowty Service Bulletin 200–32–315, dated April 24, 2015.
- Messier-Bugatti-Dowty Service Bulletin 201–32–63, dated April 24, 2015.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI allows modification to the MLG in accordance with the following Airbus service information or the applicable Messier-Bugatti-Dowty service information:

- Airbus Service Bulletin A320–32–1429, dated September 10, 2015;
- Messier-Bugatti-Dowty Service Bulletin 200–32–315, dated April 24, 2015;
- Messier-Bugatti-Dowty Service Bulletin 201–32–63, dated April 24, 2015.

This proposed AD would require that the MLG be modified in accordance with the Airbus service information and the applicable Messier-Bugatti-Dowty service information.

Costs of Compliance

We estimate that this proposed AD affects 959 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement or Modification	9 work-hour × $85 per hour = $765	$14,104	$14,869	$14,259,371

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new Airworthiness Directive (AD):

Airbus: Docket No. FAA–2016–9071; Directorate Identifier 2016–NM–019–AD.

(a) Comments Due Date

We must receive comments by October 24, 2016.

(b) Affected ADs

None

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A318–111, –112, –121, and –122 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by an evaluation by the design approval holder (DAH) which indicates that the main landing gear (MLG) does not comply with certification specifications, which could result in a locking failure of the MLG side stay. We are issuing this AD to prevent possible collapse of the MLG during takeoff and landing.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Modification or Replacement

Within 66 months after the effective date of this AD, accomplish the action specified in paragraph (g)(1) or (g)(2) of this AD.

(1) Modify each MLG side stay assembly having a part number listed in figure 1 to paragraphs (g), (h), and (i) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1429, dated September 10, 2015, and the service information specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD, as applicable.

(i) For Model A318 series airplanes; Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes: Messier-Bugatti-Dowty Service Bulletin 200–32–315, dated April 24, 2015.

(ii) For Model A321 series airplanes: Messier-Bugatti-Dowty Service Bulletin 201–32–63, dated April 24, 2015.

(2) Replace the MLG side stay assembly with a side stay assembly that has been modified in accordance with paragraph (g)(1) of this AD. Do the replacement using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or The European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

Note 1 to paragraph (g)(2) of this AD: Additional guidance for the replacement can be found in Chapter 32 of the Airbus A318/A319/A320/A321 Aircraft Maintenance Manual.

(h) Unaffected Airplanes

An airplane on which Airbus modification (mod) 156646, Airbus mod 161202, or Airbus mod 161346 has been embodied in production is not affected by the requirements of paragraph (g) of this AD, provided it is determined that no part having a part number identified as listed in figure 1 to paragraphs (g), (h), and (i) of this AD, has been installed on that airplane since the date of issuance of the original certificate of airworthiness or the original export certificate of airworthiness. A review of maintenance records is acceptable to make this determination, provided that these records are accurate and can be relied upon to conclusively make that determination.

(i) Parts Installation Prohibition

As of the effective date of this AD, do not install on any airplane, an MLG side stay assembly having a part number, with the strike number not cancelled, as identified in figure 1 to paragraphs (g), (h), and (i) of this AD, unless it has been modified in accordance with the requirements of paragraph (g) of this AD.

FIGURE 1 TO PARAGRAPHS (g), (h), AND (i) OF THIS AD—AFFECTED MLG SIDE STAY ASSEMBLIES

Models	Affected part numbers (the 'xxx' used in this figure can be any 3-digit combination)	Strike number not cancelled
A318–111, –112, –121, and –122 airplanes; A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; A320–211, –212, –214, –231, –232, and –233 airplanes.	201166001–xxx	12
	201166002–xxx	12
	201166003–xxx	12
	201166004–xxx	12
	201166005–xxx	12
	201166006–xxx	12
	201166007–xxx	12
	201166008–xxx	12
	201166009–xxx	12
	201166010–xxx	12
	201166011–xxx	12
	201166012–xxx	12
	201166013–000 through 201166013–030 inclusive	12
	201166014–000 through 201166014–030 inclusive	12
A321–111, –112, and –131 airplanes	201390001–000 through 201390001–040 inclusive	15
	201390002–000 through 201390002–040 inclusive	15
	201527001–000 through 201527001–025 inclusive	15
	201527002–000 through 201527002–025 inclusive	15
A321–211, –212, –213, –231, and –232 airplanes	201524001–000 through 201524001–035 inclusive	15
	201524002–000 through 201524002–035 inclusive	15
	201660001–000 through 201660001–030 inclusive	15
	201660002–000 through 201660002–030 inclusive	15

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or The European Aviation Safety Agency (EASA); or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) Required for Compliance (RC): If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0018, dated January 19, 2016, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9071.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 19, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21282 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9000; Directorate Identifier 2016–CE–027–AD]

RIN 2120–AA64

Airworthiness Directives; Various Aircraft Equipped With BRP-Powertrain GmbH & Co KG 912 A Series Engine

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for various

aircraft equipped with a BRP-Powertrain GmbH & Co KG (formerly Rotax Aircraft Engines) 912 A series engine. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a manufacturing defect found in certain carburetor floats. We are issuing this proposed AD to prevent the fuel supply to the affected cylinder from becoming reduced or blocked, which could cause an in-flight engine shutdown and result in a forced landing and damage to the airplane or injury to the occupants.

DATES: We must receive comments on this proposed AD by October 24, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact BRP-Powertrain GmbH & Co. KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; phone: +43 7246 601 0; fax: +43 7246 601 9130; Internet: *www.rotax-aircraft-engines.com*. You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9000; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9000; Directorate Identifier 2016–CE–027–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2016–0144, correction dated July 25, 2016, to correct an unsafe condition for the specified products. The MCAI states:

> Due to a quality escape in the manufacturing process of certain floats, Part Number (P/N) 861185, a partial separation of the float outer skin may occur during engine operation. Separated particles could lead to a restriction of the jets in the carburetor, possibly reducing or blocking the fuel supply to the affected cylinder.
>
> This condition, if not detected and corrected, could lead to in-flight engine shutdown and forced landing, possibly resulting in damage to the aeroplane and injury to occupants.
>
> To address this potential unsafe condition, BRP-Powertrain published Alert Service Bulletin (ASB) ASB–912–069/ASB–914–051 (single document, hereafter referred to as 'the ASB' in this AD), providing instructions for identification and replacement of the affected parts.
>
> For the reasons stated above, this AD required identification and replacement of the affected floats with serviceable parts.
>
> This AD is republished to correct one typographical error in Table 2 of Appendix 2, and to include reference to revision 1 of the ASB in the Referenced Publications.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9000.

Related Service Information Under 1 CFR Part 51

BRP-Powertrain GmbH & CO KG has issued Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–069R1/ASB–914–051R1 (co-published as one document), dated July 22, 2016. The service information describes procedures for identifying and replacing defective carburetor floats. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 65 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $100 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $17,550, or $270 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Various Aircraft: Docket No. FAA–2016–9000; Directorate Identifier 2016–CE–027–AD.

(a) Comments Due Date

We must receive comments by October 24, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all serial numbers (S/N) of the airplanes listed in table 1 of paragraph (c) of this AD, certificated in any category, that incorporate one of the following:

(1) a BRP-Powertrain GmbH & Co KG (formerly Rotax Aircraft Engines) 912 A series engine having a serial number with a carburetor part number (P/N) and S/N listed in table 2 of paragraph (c) of this AD, installed as noted, in cylinder head position 1 through 4; or

(2) an engine that, after May 8, 2016, has had an affected float, P/N 861185, installed in service as part of the airframe. Affected floats were initially delivered between May 9, 2016, and July 17, 2016, and do not have three dots stamped on the surface, as shown in paragraph 3.3) of the Accomplishment/Instructions in Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–069R1/ASB–914–051R1 (co-published as one document), dated July 22, 2016. A certification document (*e.g.,* Form 1), delivery document or record of previous installation of the float are acceptable to determine an initial delivery on or before May 8, 2016.

TABLE 1 OF PARAGRAPH (C)—AFFECTED AIRPLANES

Type certificate holder	Aircraft model	Engine model
Aeromot-Indústria Mecânico-Metalúrgica Ltda	AMT–200	912 A2
Diamond Aircraft Industries	HK 36 R "SUPER DIMONA"	912 A
DIAMOND AIRCRAFT INDUSTRIES GmbH	HK 36 TS and HK 36 TC	912 A3
Diamond Aircraft Industries Inc	DA20–A1	912 A3
HOAC-Austria	DV 20 KATANA	912 A3
Iniziative Industriali Italiane S.p.A	Sky Arrow 650 TC	912 A2
SCHEIBE-Flugzeugbau GmbH	SF 25C	912 A2, 912 A3

TABLE 2 OF PARAGRAPH (C)—AFFECTED CARBURETORS

Engine	Cylinder position	Carburetor P/N and S/N
912A1, 912A2, 912A3, 912A4	1 or 3	P/N 892500—S/Ns 161138 through 161143, 161483 through 161490, 161493 through 161507, 161516 through 161518, and 161526.
	2 or 4	P/N 892505—S/Ns 162193, 162194, 162196 through 162199, and 162205.

(d) Subject

Air Transport Association of America (ATA) Code 73: Engine—Fuel and Control.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a manufacturing defect found in certain carburetor floats. We are issuing this AD to require actions to prevent the fuel supply to the affected cylinder from becoming reduced or blocked, which could cause an in-flight engine shutdown and result in a forced landing and damage to the airplane or injury to the occupants.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 25 hours time-in-service after the effective date of this AD or within the next 30 days after the effective date of this AD, whichever occurs first, replace all affected floats with a serviceable float following paragraph (3) Accomplishment/Instructions in Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–069R1/ASB–914–051R1 (co-published as one document), dated July 22, 2016.

(2) As of the effective date of this AD, do not install a float, P/N 861185, that does not have three dots stamped on the surface, as shown in paragraph (3.3) of the Accomplishment/Instructions in Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–069R1/ASB–914–051R1 (co-published as one document), dated July 22, 2016.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to

ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2016–0144, correction dated July 25, 2016, and BRP-Powertrain GmbH & CO KG Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–069/ASB–914–051 (co-published as one document), dated July 14, 2016, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9000. For service information related to this AD, contact BRP-Powertrain GmbH & Co. KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; phone: +43 7246 601 0; fax: +43 7246 601 9130; Internet: *www.rotax-aircraft-engines.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on August 25, 2016.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21052 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–8834; Airspace Docket No. 16–ACE–9]

Proposed Amendment of Class E Airspace; Mapleton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at James G. Whiting Memorial Field Airport, Mapleton, IA. Decommissioning of the Mapleton non-directional radio beacon (NDB), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before October 24, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826, or 1–800–647–5527. You must identify FAA Docket No. FAA–2016–8834; Airspace Docket No. 16–ACE–9, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at James G. Whiting Memorial Field Airport, Mapleton, IA.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–8834/Airspace Docket No. 16–ACE–9.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface within a 6.6-mile radius (increased from the 6.3-mile radius) of James G. Whiting Memorial Field Airport, Mapleton, IA, with an extension southwest of the airport from the 6.6-mile radius to 10.3 miles. The segment extending 10 miles northeast of the airport would be removed. Airspace reconfiguration is necessary due to the decommissioning of the Mapleton NDB, cancellation of NDB approaches, and implementation of RNAV procedures at the airport and for the safety and management of the standard instrument approach procedures for IFR operations at the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE IA E5 Mapleton, IA [Amended]

Mapleton, James G. Whiting Memorial Field Airport, IA
(Lat. 42°10′42″ N., long. 95°47′37″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of James G. Whiting Memorial Field Airport, and within 4 miles each side of the 204° bearing from the airport extending from the 6.6-mile radius to 10.3 miles southwest of the airport.

Issued in Fort Worth, Texas, on August 24, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–21027 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–8827; Airspace Docket No. 16–ASW–12]

Proposed Amendment of Class D and E Airspace for the Following Texas Towns; Georgetown, TX; Corpus Christi, TX; Dallas/Fort Worth, TX; Gainesville, TX; Graford, TX; Hebbronville, TX; and Jasper, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class D airspace at Georgetown Municipal Airport, Georgetown, TX, and modify Class E airspace extending upward from 700 feet above the surface at Rockport Aransas County Airport, Corpus Christi, TX; Lancaster Airport, Dallas/Fort Worth, TX; Gainesville Municipal Airport, Gainesville, TX; Georgetown Municipal Airport, Georgetown, TX; (Hebbronville, TX) O.S. Wyatt Airport, Realitos, TX; and Jasper County-Bell Field, Jasper, TX. Decommissioning of non-directional radio beacons (NDBs), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at these airports. Additionally, the geographic coordinates at Corpus Christi International Airport; the Corpus Christi VORTAC; Aransas County Airport, Rockport, TX; Nueces County Airport, Robstown, TX; Dallas/Fort Worth International Airport, Dallas/Fort Worth, TX; McKinney National Airport, McKinney, TX; Lancaster Airport; Bourland Field Airport, Fort Worth, TX; and Jasper County-Bell Field would be adjusted to coincide with the FAA's aeronautical database. Also, the names of McCampbell-Porter Airport (formerly T.P. McCampbell Airport); McKinney National Airport (formerly Collin County Regional Airport); and Ralph M. Hall/Rockwall Municipal Airport (formerly Rockwall Municipal Airport) would be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before October 24, 2016.

ADDRESS: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202)

366–9826, or 1–800–647–5527. You must identify FAA Docket No. FAA–2016–8827; Airspace Docket No. 16–ASW–12, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.* FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify Class D airspace at Georgetown Municipal Airport, Georgetown, TX; modify Class E airspace extending upward from 700 feet above the surface at Rockport Aransas County Airport, Corpus Christi, TX; Lancaster Airport, Dallas/Fort Worth, TX; Gainesville Municipal Airport, Gainesville, TX; Georgetown Municipal Airport, Georgetown, TX; O.S. Wyatt Airport, Realitos, TX; Jasper County-Bell Field, Jasper, TX.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2016–8827/Airspace Docket No. 16–ASW–12." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying:

Class D airspace within a 4.1-mile radius (reduced from a 5-mile radius) of Georgetown Municipal Airport, Georgetown, TX;

Class E airspace extending upward from 700 feet above the surface at Corpus Christi, TX; Within a 6.6-mile radius (reduced from a 7.6-mile radius) of Aransas County Airport, Rockport, TX, with extensions to the north of the airport from the 6.6-mile radius to 10 miles, to the southeast of the airport from the 6.6-mile radius to 10 miles, to the south of the airport from the 6.6-mile radius to 10 miles, and to the northwest of the airport from the 6.6-mile radius to 10 miles, and updating the geographic coordinates of Corpus Christi International Airport (also located in Class E extension airspace), Nueces County Airport, Robstown, TX, and the name of McCampbell-Porter Airport (formerly T.P. McCampbell Airport) to coincide with the FAA's aeronautical database. The Corpus Christi VORTAC listed for Sinton, TX, also would have geographic coordinates updated.

Class E airspace extending upward from 700 feet above the surface at Dallas/Fort Worth, TX;

Within a 6.6-mile radius (increased from a 6.5-mile radius) of the Lancaster Airport, Lancaster, TX, with an extension southeast of the airport from the 6.6-mile radius to 9.2 miles and updating the geographic coordinates of the airport;

By updating the geographic coordinates of Dallas/Fort Worth International Airport, McKinney National Airport, and Bourland Field Airport, and the name of McKinney National Airport (formerly Collin County Regional Airport) and Ralph M. Hall/Rockwall Municipal Airport (formerly Rockwall Municipal Airport) to coincide with the FAA's aeronautical database;

By removing the 10.4-mile segment extending from the 6.6-mile radius of Gainesville Municipal Airport, Gainesville, TX;

Within a 6.6-mile radius (increased from a 6.5-mile radius) of Georgetown Municipal Airport, Georgetown, TX, with extensions to the northwest of the airport from the 6.6-mile radius to 9.8 miles, and to the north of the airport from the 6.6-mile radius to 10.4 miles.

Class E airspace extending upward from 700 feet above the surface at

Hebbronville, TX; Within a 6.5-mile radius (reduced from a 6.9-mile radius) of O.S. Wyatt Airport, Realitos, TX;

And within a 6.6-mile radius (increased from a 6.5-mile radius) of Jasper County-Bell Field, Jasper, TX, with an extension to the north of the airport from the 6.6-mile radius to 6.7 miles, and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of NDBs, cancellation of NDB approaches, and implementation of RNAV procedures, and would enhance the safety and management of the standard instrument approach procedures for IFR operations at these airports.

Class D and E airspace designations are published in paragraph 5000, 6002, 6003, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Georgetown, TX [Amended]

Georgetown Municipal Airport, Texas
(Lat. 30°40′44″ N., long. 97°40′46″ W.)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 1-mile radius of Georgetown Municipal Airport. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASW TX E2 Rockport, TX [Amended]

Aransas County Airport, TX
(Lat. 28°05′10″ N., long. 97°02′37″ W.)

That airspace extending upward from the surface within a 4.1-mile radius of Aransas County Airport.

* * * * *

Paragraph 6003 Class E Airspace Areas Designated as an Extension.

* * * * *

ASW TX E3 Corpus Christi, TX [Amended]

Corpus Christi International Airport, TX
(Lat. 27°46′16″ N., long. 97°30′04″ W.)
Corpus Christi VORTAC
(Lat. 27°54′14″ N., long. 97°26′42″ W.)

That airspace extending upward from the surface within 1.3 miles each side of the 200° radial of the Corpus Christi VORTAC extending from a 5-mile radius of Corpus Christi International Airport to 6.4 miles north of the airport.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Corpus Christi, TX [Amended]

Corpus Christi International Airport, TX
(Lat. 27°46′16″ N., long. 97°30′04″ W.)
Corpus Christi NAS/Truax Field, TX
(Lat. 27°41′34″ N., long. 97°17′25″ W.)
Port Aransas, Mustang Beach Airport, TX
(Lat. 27°48′43″ N., long. 97°05′20″ W.)
Rockport, San Jose Island Airport, TX
(Lat. 27°56′40″ N., long. 96°59′06″ W.)
Rockport, Aransas County Airport, TX
(Lat. 28°05′10″ N., long. 97°02′37″ W.)
Ingleside, McCampbell-Porter Airport, TX
(Lat. 27°54′47″ N., long. 97°12′41″ W.)
Robstown, Nueces County Airport, TX
(Lat. 27°46′41″ N., long. 97°41′24″ W.)
Corpus Christi VORTAC, TX
(Lat. 27°54′14″ N., long. 97°26′42″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Corpus Christi International Airport and within 1.4 miles each side of the 200° radial of the Corpus Christi VORTAC extending from the 7.5-mile radius to 8.5 miles north of the airport, and within 1.5 miles each side of the 316° bearing from Corpus Christi International Airport extending from the 7.5-mile radius to 10.1 miles northwest of the airport, and within 2 miles each side of the 179° bearing from Corpus Christi International Airport extending from the 7.5-mile radius to 14 miles south of the airport, and within an 8.8-mile radius of Corpus Christi NAS/Truax Field, and within a 6.3-mile radius of Mustang Beach Airport, and within a 6.4-mile radius of McCampbell-Porter Airport, and within a 6.3-mile radius of Nueces County Airport, and within a 6.6-mile radius of Aransas County Airport, and within 2 miles each side of the 010° bearing from the Aransas County Airport extending from the 6.6-mile radius to 10 miles north of the airport, and within 2 miles each side of the 145° bearing from the Aransas County Airport extending from the 6.6-mile radius to 10 miles southeast of the airport, and within 2 miles each side of the 190° bearing from the Aransas County Airport extending from the 6.6-mile radius to 10 miles south of the airport, and within 2 miles each side of the 325° bearing from the Aransas County Airport extending from the 6.6-mile radius to 10 miles northwest of the airport, and within a 6.5-mile radius of San Jose Island Airport, and within 8 miles west and 4 miles east of the 327° bearing from the San Jose Island Airport extending from the airport to 20 miles northwest of the airport, and within 8 miles east and 4 miles west of the 147° bearing from San Jose Island Airport extending from the airport to 16 miles southeast of the airport, excluding that portion more than 12 miles from and parallel to the shoreline.

* * * * *

ASW TX E5 Dallas/Fort Worth, TX [Amended]

Dallas/Fort Worth International Airport, TX
(Lat. 32°53′50″ N., long. 97°02′16″ W.)
McKinney, McKinney National Airport, TX

(Lat. 33°10′37″ N., long. 96°35′20″ W.)
Rockwall, Ralph M. Hall/Rockwall Municipal Airport, TX
(Lat. 32°55′50″ N., long. 96°26′08″ W.)
Mesquite, Mesquite Metro Airport, TX
(Lat. 32°44′49″ N., long. 96°31′50″ W.)
Mesquite NDB
(Lat. 32°48′34″ N., long. 96°31′45″ W.)
Mesquite Metro ILS Localizer
(Lat. 32°44′03″ N., long. 96°31′50″ W.)
Lancaster, Lancaster Airport, TX
(Lat. 32°34′39″ N., long. 96°43′03″ W.)
Point of Origin
(Lat. 32°51′57″ N., long. 97°01′41″ W.)
Fort Worth, Fort Worth Spinks Airport, TX
(Lat. 32°33′55″ N., long. 97°18′29″ W.)
Cleburne, Cleburne Regional Airport, TX
(Lat. 32°21′14″ N., long. 97°26′02″ W.)
Fort Worth, Bourland Field Airport, TX
(Lat. 32°34′55″ N., long. 97°35′27″ W.)
Granbury, Granbury Regional Airport, TX
(Lat. 32°26′40″ N., long. 97°49′01″ W.)
Weatherford, Parker County Airport, TX
(Lat. 32°44′47″ N., long. 97°40′57″ W.)
Bridgeport, Bridgeport Municipal Airport, TX
(Lat. 33°10′31″ N., long. 97°49′42″ W.)
Decatur, Decatur Municipal Airport, TX
(Lat. 33°15′15″ N., long. 97°34′50″ W.)

That airspace extending upward from 700 feet above the surface within a 30-mile radius of Dallas-Fort Worth International Airport, and within a 6.6-mile radius of McKinney National Airport, and within 1.8 miles each side of the 002° bearing from McKinney National Airport extending from the 6.6-mile radius to 9.2 miles north of the airport, and within a 6.3-mile radius of Ralph M. Hall/Rockwall Municipal Airport, and within 1.6 miles each side of the 010° bearing from Ralph M. Hall/Rockwall Municipal Airport extending from the 6.3-mile radius to 10.8 miles north of the airport, and within a 6.5-mile radius of Mesquite Metro Airport, and within 8 miles east and 4 miles west of the 001° bearing from Mesquite NDB extending from the 6.5-mile radius to 19.7 miles north of the airport, and within 1.7 miles each side of the Mesquite Metro ILS Localizer south course extending from the 6.5-mile radius to 11.1 miles south of the airport, and within a 6.6-mile radius of Lancaster Airport, and within 1.9 miles each side of the 140° bearing from Lancaster Airport from the 6.6-mile radius to 9.2 miles southeast of the airport, and within 8 miles northeast and 4 miles southwest of the 144° bearing from the Point of Origin extending from the 30-mile radius of Dallas/Fort Worth International Airport to 35 miles southeast of the Point of Origin, and within a 6.5-mile radius of Fort Worth Spinks Airport, and within 8 miles east and 4 miles west of the 178° bearing from Fort Worth Spinks Airport extending from the 6.5-mile radius to 21 miles south of the airport, and within a 6.9-mile radius of Cleburne Regional Airport, and within 3.6 miles each side of the 292° bearing from the airport extending from the 6.9-mile radius to 12.2 miles northwest of Cleburne Regional Airport, and within a 6.5-mile radius of Fort Worth's Bourland Field Airport, and within a 6.3-mile radius of Granbury Regional Airport, and within a 6.3-mile radius of Weatherford's Parker County Airport, and within 8 miles east and 4 miles west of the 177° bearing from Parker County Airport extending from the 6.3-mile radius to 21.4 miles south of the airport, and within a 6.3-mile radius of Bridgeport Municipal Airport, and within 1.6 miles each side of the 040° bearing from Bridgeport Municipal Airport extending from the 6.3-mile radius to 10.6 miles northeast of the airport, and within 4 miles each side of the 001° bearing from Bridgeport Municipal Airport extending from the 6.3-mile radius to 10.7 miles north of the airport, and within a 6.3-mile radius of Decatur Municipal Airport, and within 1.5 miles each side of the 263° bearing from Decatur Municipal Airport extending from the 6.3-mile radius to 9.2 miles west of the airport.

* * * * *

ASW TX E5 Gainesville, TX [Amended]

Gainesville Municipal Airport, TX
(Lat. 33°39′08″ N., long. 97°11′50″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Gainesville Municipal Airport.

* * * * *

ASW TX E5 Georgetown, TX [Amended]

Georgetown Municipal Airport, TX
(Lat. 30°40′44″ N., long. 97°40′46″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Georgetown Municipal Airport, and within 2.0 miles each side of the 301° bearing from the airport extending from the 6.6-mile radius to 9.8 miles northwest of the airport, and within 2 miles each side of the 004° bearing from the airport extending from the 6.6-mile radius to 10.4 miles north of the airport.

* * * * *

ASW TX E5 Hebbronville, TX [Amended]

Hebbronville, Jim Hogg County Airport, TX
(Lat. 27°20′58″ N., long. 98°44′13″ W.)
Realitos, O.S. Wyatt Airport, TX
(Lat. 27°25′18″ N., long. 98°36′16″ W.)
Hebbronville NDB
(Lat. 27°21′14″ N., long. 98°44′39″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jim Hogg County Airport and within 2.5 miles each side of the 325° bearing from the Hebbronville NDB extending from the 6.5-mile radius to 7.5 miles northwest of the airport and within a 6.5-mile radius of O.S. Wyatt Airport.

* * * * *

ASW TX E5 Jasper, TX [Amended]

Jasper, Jasper County-Bell Field, TX
(Lat. 30°53′09″ N., long. 94°02′06″ W.)

The airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Jasper County-Bell Field and within 1.6 miles each side of the 001° bearing from the airport from the 6.6-mile radius to 6.7 miles north of the airport.

* * * * *

ASW TX E5 Sinton, TX [Amended]

Sinton, San Patricio County Airport, TX
(Lat. 28°02′19″ N., long. 97°32′32″ W.)
Corpus Christi VORTAC
(Lat. 27°54′14″ N., long. 97°26′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of San Patricio County Airport and within 1.3 miles each side of the 328° radial of the Corpus Christi VORTAC extending from the 6.4-mile radius to 9.6 miles southeast of the airport.

Issued in Fort Worth, Texas, on August 24, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–21028 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–8830; Airspace Docket No. 16–AGL–18]

Proposed Amendment of Class E Airspace for the Following Wisconsin Towns; Land O' Lakes, WI; Manitowish Waters, WI; Merrill, WI; Oconto, WI; Phillips, WI; Platteville, WI; Solon Springs, WI; Superior, WI; and West Bend, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Kings Land O' Lakes Airport, Land O' Lakes, WI; Manitowish Waters Airport, Manitowish Waters, WI; Merrill Municipal Airport, Merrill, WI; Oconto-J. Douglas Bake Municipal Airport, Oconto, WI; Price County Airport, Phillips, WI; Platteville Municipal Airport, Platteville, WI; Solon Springs Municipal Airport, Solon Springs, WI; Richard I. Bong Airport, Superior, WI; and West Bend Municipal Airport, West Bend, WI. Decommissioning of non-directional radio beacons (NDBs), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at these airports. Additionally, the geographic coordinates for Kings Land O' Lakes Airport; Manitowish Waters Airport; Oconto-J. Douglas Bake Municipal Airport; and Solon Springs Municipal Airport would be adjusted to coincide with the FAA's aeronautical database. The name of Oconto-J. Douglas Bake Municipal Airport (formerly Oconto Municipal Airport) also would be updated.

DATES: Comments must be received on or before October 24, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826, or 1–800–647–5527. You must identify FAA Docket No. FAA–2016–8830; Airspace Docket No. 16–AGL–18, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Kings Land O' Lakes Airport, Land O' Lakes, WI; Manitowish Waters Airport, Manitowish Waters, WI; Merrill Municipal Airport, Merrill, WI; Oconto-J. Douglas Bake Municipal Airport, Oconto, WI; Price County Airport, Phillips, WI; Platteville Municipal Airport, Platteville, WI; Solon Springs Municipal Airport, Solon Springs, WI; Richard I. Bong Airport, Superior, WI; and West Bend Municipal Airport, West Bend, WI.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2016–8830/Airspace Docket No. 16–AGL–18." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface:

Within a 6.4-mile radius (reduced from the 7-mile radius) of Kings Land O' Lakes Airport, Land O' Lakes, WI, and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Within a 6.3-mile radius (reduced from the 7-mile radius) of Manitowish Waters Airport, Manitowish, WI, and removing the 9-mile segment southeast of the airport, and updating the geographic coordinates of the airport to coincide with the FAA's database;

Within a 6.6-mile radius (reduced from the 7-mile radius) of Merrill Municipal Airport, Merrill, WI;

By removing the 7-mile segment extending from the 6.3-mile radius southeast of Oconto-J. Douglas Bake Municipal Airport, Oconto, WI, and updating the name and geographic coordinates of the airport to coincide with the FAA's aeronautical database;

By removing the 7-mile segments extending from the 6.6-mile radius southwest and northeast of Price County Airport, Phillips, WI;

Within a 6.4-mile radius (reduced from the 7.4-mile radius) of Platteville Municipal Airport, Platteville, WI, with an extension southeast of the airport from the 6.4-mile radius to 10.2 miles;

Within a 6.3-mile radius (reduced from the 6.6-mile radius) of Solon Springs Municipal Airport, Solon Springs, WI, and removing the 7.4-mile segment north of the airport, and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Within an 8.5-mile radius (increased from a 6.7-mile radius) of Richard I. Bong Airport, Superior, WI, and removing the 12.2-mile segment southeast of the airport;

And within a 6.8-mile radius (reduced from the 7.4-mile radius) of the West Bend Municipal Airport, West Bend, WI, reducing existing segment extending from the 6.8-mile radius to 11.4 miles southwest, and adding segments extending from the 6.8-mile radius to 7 miles northeast and 10 miles northwest of the airport.

Airspace reconfiguration is necessary due to the decommissioning of NDBs, cancellation of NDB approaches, and implementation of RNAV procedures at these airports, and for the safety and management of the standard instrument approach procedures for IFR operations.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL WI E5 Land O' Lakes, WI [Amended]

Kings Land O' Lakes Airport, WI
(Lat. 46°09′15″ N., long. 89°12′43″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Kings Land O'Lakes Airport.

* * * * *

AGL WI E5 Manitowish Waters, WI [Amended]

Manitowish Waters Airport, WI
(Lat. 46°07′13″ N., long. 89°52′56″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Manitowish Waters Airport.

* * * * *

AGL WI E5 Merrill, WI [Amended]

Merrill Municipal Airport, WI
(Lat. 45°11′56″ N., long. 89°42′46″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Merrill Municipal Airport.

* * * * *

AGL WI E5 Oconto, WI [Amended]

Oconto-J. Douglas Bake Municipal Airport, WI
(Lat. 44°52′27″ N., long. 87°54′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Oconto-J. Douglas Bake Municipal Airport.

* * * * *

AGL WI E5 Phillips, WI [Amended]

Price County Airport, WI
(Lat. 45°42′32″ N., long. 90°24′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Price County Airport.

AGL WI E5 Platteville, WI [Amended]

Platteville Municipal Airport, WI
(Lat. 42°41′22″ N., long. 90°26′40″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Platteville Municipal Airport, and within 4 miles each side of the 145° bearing from the airport extending from the 6.4-mile radius to 10.2 miles southeast of the airport.

* * * * *

AGL WI E5 Solon Springs, WI [Amended]

Solon Springs Municipal Airport, WI
(Lat. 46°18′53″ N., long. 91°48′59″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Solon Springs Municipal Airport.

* * * * *

AGL WI E5 Superior, WI [Amended]

Richard I. Bong Airport, WI.
(Lat. 46°41′23″ N., long. 92°05′41″ W.)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Richard I. Bong Airport.

* * * * *

AGL WI E5 West Bend, WI [Amended]

West Bend Municipal Airport, WI
(Lat. 43°25′20″ N., long. 88°07′41″ W.)
West Bend VOR
(Lat. 43°25′19″ N., long. 88°07′31″ W .)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of West Bend Municipal Airport, and within 2 miles each side of the 239° bearing from the airport extending from the 6.8-mile radius to 11.4 miles southwest of the airport, and within 1.2 miles each side of the West Bend VOR 052° radial extending from the 6.8-mile radius to 7 miles northeast of the airport, and within 1.3 miles each side of the West Bend VOR 303° radial extending from the 6.8-mile radius to 10 miles northwest of the airport, excluding that airspace within the Hartford, WI, Class E airspace area.

Issued in Fort Worth, Texas, on August 24, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–21030 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4 and 24

[Docket No. TTB–2016–0005; Notice No. 160A; Re: Notice No. 160]

RIN 1513–AC27

Proposed Revisions to Wine Labeling and Recordkeeping Requirements; Comment Period Reopening

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is reopening

the comment period for Notice No. 160, Proposed Revisions to Wine Labeling and Recordkeeping Requirements, a notice of proposed rulemaking published in the **Federal Register** on June 22, 2016. In Notice No. 160, TTB proposed to amend its labeling and recordkeeping regulations in 27 CFR part 24 to provide that any standard grape wine containing 7 percent or more alcohol by volume that is covered by a certificate of exemption from label approval may be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin only if the wine is labeled in compliance with the standards set forth in the appropriate sections of 27 CFR part 4 for that label information. TTB also proposed to amend its part 4 wine labeling regulations to include a reference to the new part 24 requirement. TTB is reopening the comment period in response to requests from two wine industry trade associations. In addition, this reopening of the comment period solicits comments from the public on issues that were raised in comments received in response to Notice No. 160.

DATES: The comment period for the proposed rule published on June 22, 2016 (81 FR 40584) is reopened. Written comments on Notice No. 160 are now due on or before December 7, 2016.

ADDRESSES: Please send your comments on Notice No. 160 to one of the following addresses:

- *Internet: https://www.regulations.gov* (via the online comment form for this notice as posted within Docket No. TTB–2016–0005 at "*Regulations.gov,*" the Federal e-rulemaking portal);
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

See the Public Participation section of Notice 160 notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this document and any comments TTB receives about this proposal at *https://www.regulations.gov* within Docket No. TTB–2016–0005. A link to that docket is posted on the TTB Web site at *https://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 160. You also may view copies of this proposed rule and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division; telephone 202–453–1039, ext. 275.

SUPPLEMENTARY INFORMATION: In Notice No. 160 (81 FR 40584, June 22, 2016), the Alcohol and Tobacco Tax and Trade Bureau (TTB) proposed to amend its labeling and recordkeeping regulations in 27 CFR part 24 to provide that any standard grape wine containing 7 percent or more alcohol by volume that is covered by a certificate of exemption from label approval may be labeled with a varietal (grape type) designation, a type designation of varietal significance, a vintage date, or an appellation of origin only if the wine is labeled in compliance with the standards set forth in the appropriate sections of 27 CFR part 4 for that label information. TTB is also proposing to amend its part 4 wine labeling regulations to include a reference to the new part 24 requirement. The 60-day comment period for Notice No. 160 originally closed on August 22, 2016.

TTB has received two requests from California-based wine industry trade associations to extend the public comment period an additional 90 days. The first, dated August 2, 2016, was submitted by Wine Institute; the second, dated August 19, 2016, was submitted by the California Association of Winegrape Growers. Both associations state that additional time is needed to assess the proposal's effects on their membership, noting that their members are currently preoccupied with the grape harvest. The letters are posted as Comment 7 and Comment 41 within Docket No. TTB–2016–0005 at *www.regulations.gov.*

Determination To Re-Open the Public Comment Period

In response to the requests from Wine Institute and the California Association of Winegrape Growers to extend the comment period, TTB is reopening the comment period for Notice No. 160 for an additional 90 days. We believe this additional time is necessary for industry members and the public to fully consider the proposals outlined in Notice 160. Therefore, comments on Notice No. 160 are now due on or before December 7, 2016.

Based on comments TTB has received to date on Notice No. 160, TTB is especially interested in comments regarding whether any geographic reference to the source of the grapes used in the wine could be included on a wine label in a way that would not be misleading with regard to the source of the wine. In light of the reopening of the comment period, TTB is asking that commenters consider this issue when commenting on Notice No. 160. Please provide any available specific information in support of your comments.

Drafting Information

Jennifer Berry of the Regulations and Rulings Division drafted this notice.

Dated: September 1, 2016.

John J. Manfreda,

Administrator.

[FR Doc. 2016–21522 Filed 9–7–16; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2016–0007; Notice No. 161]

RIN 1513–AC26

Proposed Establishment of the Cape May Peninsula Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the 126,635-acre "Cape May Peninsula" viticultural area in Cape May and Cumberland Counties, New Jersey. The proposed viticultural area lies entirely within the Outer Coastal Plain viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by November 7, 2016.

ADDRESSES: Please send your comments on this notice to one of the following addresses:

- *Internet: https://www.regulations.gov* (via the online comment form for this notice as posted within Docket No. TTB–2016–0007 at "*Regulations.gov,*" the Federal e-rulemaking portal);
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco

Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or

- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or obtain copies of the petition and supporting materials.

FOR FURTHER INFORMATION CONTACT: Kate M. Bresnahan, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 151.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013, (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes the standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Cape May Peninsula Petition

TTB received a petition from Alfred Natali, owner of Natali Vineyards, LLC, on behalf of the ad hoc Cape May Wine Growers Association, proposing the establishment of the "Cape May Peninsula" AVA. The proposed Cape May Peninsula AVA covers portions of Cape May and Cumberland Counties, New Jersey. The proposed AVA lies entirely within the established Outer Coastal Plain AVA (27 CFR 9.207) and does not overlap any other existing or proposed AVA. The proposed Cape May Peninsula AVA contains 126,635 acres, with 6 commercially-producing vineyards covering approximately 115 acres distributed throughout the proposed AVA, and an additional 147 vineyard acres planned within the proposed AVA in the next few years. Grape varieties planted within the proposed AVA include Albariño, Dolcetto, Tempranillo, Nebbiolo, Merlot, Barbera, Moscato, Malvasia, and Viognier.

According to the petition, the distinguishing features of the proposed Cape May Peninsula AVA include its temperature and soils. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this document are from the petition for the proposed Cape May Peninsula AVA and its supporting exhibits.

Name Evidence

The proposed Cape May Peninsula AVA is located in southeastern New Jersey on Cape May, named after Dutch explorer Captain Cornelius May. Captain May began exploring the Delaware Bay and its surrounding areas including the Cape, which he named after himself, in 1620. The first settlement in Cape May County, in 1650, was the whaling community of Town Bank, just north of Cape May Point.

The petitioner provided several examples of the current use of "Cape May Peninsula" to refer to the region of the proposed AVA. A U.S. Fish and Wildlife Service brochure describing the wildlife of the region is titled "The Cape May Peninsula Is Not Like the Rest of New Jersey." Two scientific articles describing birds found in the region are titled "The Influence of Weather, Geography, and Habitat on Migrating Raptors on Cape May Peninsula" [1] and "Woodcock Banding on the Cape May Peninsula, New Jersey." [2] Finally, the petitioner provided two photos of the region from a commercial stock photo Web site which are titled "Aerial view of Cape May Peninsula, New Jersey" and "Salt marsh landscape, Cape May Peninsula, New Jersey."

The petitioner also provided multiple examples of the current use of "Cape May" to refer to the region of the proposed AVA. For example, numerous municipalities use the name "Cape May," including: Cape May County, Cape May Courthouse, Cape May Point, West Cape May, and North Cape May.

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[1] Niles, Lawrence J., Joanna Berger, and Kathleen E. Clark. 1996. The influence of weather, geography, and habitat on migrating raptors on Cape May Peninsula. The Condor. 98: 382–394.

[2] Rieffenberger, Joseph C., and Fred Ferrigno. 1970. Bird-Banding. 41: 1–10.

Civic organizations such as the Cape May County Beach Plum Association and the Cape May and Cape May County Chamber of Commerce use the "Cape May" name, as does the Cape May County Board of Agriculture. In the Yellow Pages, over 100 entries contain the "Cape May" name, from Cape May Arcade to Cape May Wicker. Finally, one of the wineries in the proposed AVA is called "Cape May Winery and Vineyards."

Boundary Evidence

The northern and northwestern boundaries of the proposed Cape May Peninsula AVA separate the proposed AVA from the New Jersey Pinelands, in which development is severely restricted by law. While permitted in the New Jersey Pinelands, grape growing is difficult due to extremely acidic soils. The eastern, western, and southern boundaries separate the proposed AVA from the wetlands and coastal communities along the Delaware Bay and Atlantic Ocean, which are unsuitable for viticulture due to marshy conditions and urban development. The Delaware Bay borders the proposed AVA to the south and west, and the Atlantic Ocean is to the east of the proposed AVA.

Distinguishing Features

The distinguishing features of the proposed Cape May Peninsula AVA are its temperature and soils.

Temperature

According to the petition, temperature is the most important distinguishing feature of the proposed Cape May Peninsula AVA. The petitioner compared temperature data from Cape May County Airport, Woodbine Airport, and a U.S. Department of Agriculture site in Swainton, New Jersey, all within the proposed AVA, with temperature data from Millville Airport, the southernmost weather station in the Outer Coastal Plain AVA outside the proposed AVA.

The petition included information on growing degree days (GDD)[3] from both inside and outside the proposed AVA. GDDs are important to viticulture because they represent how often daily temperatures rise above 50 °F, which is the minimum temperature required for active vine growth and fruit development. Inside the proposed AVA, Cape May Airport and Swainton have averages of 3,491 GDDs and 3,331 GDDs, respectively, making the proposed AVA a Winkler Region III, which is defined as between 3,001 and 3,500 GDDs.[4] Millville Airport, outside of the proposed AVA, has an average of 3,516 GDDs per year, making that area a warmer Winkler Region IV, which is defined as between 3,501 and 4,000 GDDs.

However, the petition states that comparing only the average number of GDDs within and outside the proposed AVA can be misleading when it comes to determining the length of the growing season and the types of grapes that can grow inside and outside the proposed AVA. For example, the petition notes significant temperature differences in terms of extreme temperatures. The average summertime high temperature at Cape May Airport is 94 °F (F), while the average summertime high temperature at Millville Airport is 98 °F.[5] Average summertime high temperatures for Woodbine Airport and Swainton are not provided in the petition. The average wintertime low temperatures at Woodbine Airport, Swainton, and Cape May Airport are 7 °F, 9 °F, and 12 °F, respectively. The average wintertime low temperature at Millville Airport is 3 °F.[6] Plus 5 °F to minus 5 °F is the killing range for all but the most cold-hardy *Vitis vinifera* vines.

Another significant indicator of the climate difference between the proposed Cape May Peninsula AVA and the existing Outer Coastal Plain AVA is the number of frost-free days. A comparison of weather data from Millville and Swainton shows that the average number of frost-free days at Millville is 179, while the average number of frost-free days at Swainton is 207.[7] At Swainton, the last freeze usually occurs around April 15 and the first frost usually occurs around November 1. At Millville, the last freeze usually occurs in late April and the first frost usually occurs in mid-October. Due to the above differences in frost-free days and GDD totals, the proposed AVA accumulates fewer GDDs over a longer growing season than the Outer Coastal Plain AVA accumulates in a shorter season.

The combination of warmer wintertime temperatures and a longer growing season explains the proposed AVA's ability to grow cold-tender *Vitis vinifera* (more than 90 percent of its plantings) in preference to the hybrids and native plants grown throughout the existing Outer Coastal Plain AVA.

Soils

The soils in the proposed AVA are mostly loamy sand, whereas the soils in the existing Outer Coastal Plain AVA are a sandy loam. According to the petition, soils best suited to viticulture are well-drained, where the water table is a minimum of six feet or deeper. These types of soils include Downer, Evesboro, Sassafras, Fort Mott, Hooksan, Swainton, and Aura. All of these soils are present in the proposed AVA and in the Outer Coastal Plain AVA; however, the Outer Coastal Plain AVA contains additional soils not found in the proposed AVA, including Hammonton, Waterford, Galetown, and Metapeake.

The soils in the 126,635-acre proposed AVA are as follows:

- Hydric (unsuited to farming): 51,609 acres;
- Arable (suited to berry-type farming): 48,454 acres;
- Well-drained (suited to viticulture): 16,381 acres; and
- Municipal parks, airports, freshwater lakes, ponds, and tidal creeks: 10,191 acres.

The Cape May County Planning Department has identified the areas with the most well-drained soils as prospective sites for viticulture.

The New Jersey Pinelands to the north and west of the proposed AVA is an area of dense pine forest with acidic soils that are unsuitable for most farming, including viticulture. The Pinelands cover 22 percent of the state and nearly half of the existing Outer Coastal Plain AVA. The Pinelands consist of pygmy pines, swamp cedars, insect-eating plants, orchids, unique species of reptiles, endangered birds, self-contained springs, lakes, streams and bogs, and a sandy, extremely acidic and nutrient-poor surface soil. The only serious commercial crops in the Pinelands are acid-loving cranberries and blueberries. The petition states that during colonial times, people attempted to farm this land but failed due to the infertility of the soil and the low pH (the mean pH for the Pinelands is 4.4; grape vines require a pH in the 6 to 7 range). In order to improve the quality of the soils in the Pinelands, one would have to apply and incorporate large amounts of lime over a long period of time.

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[3] In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual growing degree days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth. See Albert J. Winkler, General Viticulture (Berkeley: University of California Press, 1974), pages 61–64.

[4] The GDD data for Cape May Airport and Millville Airport was recorded between 1998 and 2013. The GDD data for Swainton was recorded between 1996 and 2013.

[5] Extreme high temperature data for Cape May Airport and Millville Airport was recorded between 1998 and 2013.

[6] Extreme low temperature data for Woodbine Airport and Swainton was recorded between 2005 and 2014. Extreme low temperature data for Cape May Airport and Millville Airport was recorded between 1998 and 2014.

[7] The average number of frost-free days per year at Millville Airport is based on data recorded between 1998 and 2013. The average number of frost-free days per year at Swainton is based on data recorded between 1996 and 2013.

Summary of Distinguishing Features

In summary, the temperature and soils of the proposed Cape May Peninsula AVA distinguish it from the surrounding regions. The proposed AVA is a Winkler Region III climate, while Millville, located in the existing Outer Coastal Plain AVA, is a Winkler Region IV climate. The proposed AVA also experiences more frost-free days and a longer growing season than the rest of the Outer Coastal Plain AVA. Warmer wintertime low temperatures and a longer growing season explain the proposed AVA's ability to grow *Vitis vinifera* grape varieties, which cannot grow in the cooler winter climate found throughout most of the Outer Coastal Plain AVA. Finally, due to sufficient soil depth above the water table, which allows for deep vine growth, the proposed AVA is suitable for growing grapes, while the New Jersey Pinelands to the north and west of the proposed AVA are unsuitable for most farming due to tremendously acidic soils that make the area infertile.

Comparison of the Proposed Cape May Peninsula AVA to the Existing Outer Coastal Plain AVA

Outer Coastal Plain AVA

T.D. TTB–58, which published in the **Federal Register** on February 9, 2007 (72 FR 6165), established the Outer Coastal Plain AVA in all of Cumberland, Cape May, Atlantic, and Ocean Counties and portions of Salem, Gloucester, Camden, Burlington, and Monmouth Counties, New Jersey. The Outer Coastal Plain AVA is described in T.D. TTB–58 as having well-drained soils with a low pH, elevations below 280 feet above sea level, and a generally warm climate strongly influenced by the Atlantic Ocean and the Delaware Bay.

Despite their differences, the proposed Cape May Peninsula AVA and the existing Outer Coastal Plain AVA have broadly similar characteristics. Developed during the Pleistocene Epoch, the surface layers in the proposed Cape May Peninsula AVA are composed of sand, gravel, clay-based silt, and peat. This is similar to the surface layers of the Outer Coastal Plain AVA. Additionally, both the established Outer Coastal Plain AVA and the proposed AVA have lower elevations, soils with lower amounts of fine silt, and longer growing seasons than the region outside the established AVA. Therefore, the proposed Cape May Peninsula AVA appears to share enough similarities to remain within the established Outer Coastal Plain AVA.

TTB Determination

TTB concludes that the petition to establish the 126,635-acre Cape May Peninsula AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

Maps

The petitioner provided the required maps, and they are listed below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, "Cape May Peninsula," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using the name "Cape May Peninsula" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if this proposed rule is adopted as a final rule. TTB is not proposing "Cape May," standing alone, as a term of viticultural significance if the proposed AVA is established, in order to avoid a potential conflict with a current label holder. Accordingly, the proposed part 9 regulatory text set forth in this document specifies only the full name "Cape May Peninsula" as a term of viticultural significance for the purposes of part 4 of the TTB regulations.

The approval of the proposed Cape May Peninsula AVA would not affect any existing AVA, and any bottlers using "Outer Coastal Plain" as an appellation of origin or in a brand name for wines made from grapes grown within the Outer Coastal Plain would not be affected by the establishment of this new AVA. The establishment of the proposed Cape May Peninsula AVA would allow vintners to use "Cape May Peninsula" and "Outer Coastal Plain" as appellations of origin for wines made from grapes grown within the proposed Cape May Peninsula AVA, if the wines meet the eligibility requirements for the appellation.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, soils, climate, and other required information submitted in support of the petition. In addition, given the proposed Cape May Peninsula AVA's location within the existing Outer Coastal Plain AVA, TTB is interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the existing Outer Coastal Plain AVA. TTB is also interested in comments on whether the geographic features of the proposed AVA are so distinguishable from the surrounding Outer Coastal Plain AVA that the proposed Cape May Peninsula AVA should no longer be part of that AVA. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Cape May Peninsula AVA on wine labels that include the term "Cape May Peninsula" as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed AVA name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the AVA.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this notice within Docket No. TTB–2016–0007 on "*Regulations.gov*," the Federal e-rulemaking portal, at *https://www.regulations.gov*. A direct link to that docket is available under Notice No. 161 on the TTB Web site at *https://www.ttb.gov/wine/wine-rulemaking.shtml*. Supplemental files may be attached to comments submitted via *Regulations.gov*. For complete instructions on how to use *Regulations.gov*, visit the site and click on the "Help" tab.
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 161 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name, as well as your name and position title. If you comment via *Regulations.gov*, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this notice, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2016–0007 on the Federal e-rulemaking portal, *Regulations.gov*, at *http://www.regulations.gov*. A direct link to that docket is available on the TTB Web site at *https://www.ttb.gov/wine/wine_rulemaking.shtml* under Notice No. 161. You may also reach the relevant docket through the *Regulations.gov* search page at *http://www.regulations.gov*. For information on how to use *Regulations.gov*, click on the site's "Help" tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Public Reading Room, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or other similarly-sized documents that may be included as part of the AVA petition. Contact TTB's Public Reading Room at the above address or by telephone at 202–822–9904 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Kate M. Bresnahan of the Regulations and Rulings Division drafted this notice of proposed rulemaking.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding §9.____ to read as follows:

§____ Cape May Peninsula.

(a) *Name.* The name of the viticultural area described in this section is "Cape May Peninsula". For purposes of part 4 of this chapter, "Cape May Peninsula" is a term of viticultural significance.

(b) *Approved maps.* The 11 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Cape May Peninsula viticultural area are titled:

(1) Ocean City, New Jersey, 1989;
(2) Marmora, New Jersey, 1989;
(3) Sea Isle City, New Jersey, 1952; photorevised, 1972;
(4) Woodbine, New Jersey, 1958; photorevised, 1972;
(5) Stone Harbor, New Jersey, 1955; photorevised, 1972;
(6) Wildwood, New Jersey, 1955; photorevised, 1972;
(7) Cape May, New Jersey, 1954; photorevised, 1972;
(8) Rio Grande, New Jersey, 1956; photorevised, 1972;
(9) Heislerville, New Jersey, 1957; photorevised, 1972;
(10) Port Elizabeth, New Jersey, 1956; photorevised, 1972; and
(11) Tuckahoe, New Jersey, 1956; photorevised, 1972.

(c) *Boundary.* The Cape May Peninsula viticultural area is located in

Cape May and Cumberland Counties, New Jersey. The boundary of the Cape May Peninsula viticultural area is as described below:

(1) The beginning point is on the Ocean City quadrangle at the intersection of the 10-foot elevation contour and the Garden State Parkway, on the southern shore of Great Egg Harbor, northwest of Golders Point. Proceed southeast, then generally southwest along the meandering 10-foot elevation contour, crossing onto the Marmora quadrangle, then onto the Sea Isle City quadrangle, to the intersection of the 10-foot elevation contour with an unnamed road known locally as Sea Isle Boulevard; then

(2) Proceed northwesterly along Sea Isle Boulevard to the intersection of the road with U.S. Highway 9; then

(3) Proceed southwesterly along U.S. Highway 9 to the intersection of the highway with the 10-foot elevation contour south of Magnolia Lake; then

(4) Proceed generally southwesterly along the meandering 10-foot elevation contour, crossing onto the Woodbine quadrangle, then briefly back onto the Sea Isle City quadrangle, then back onto the Woodbine quadrangle, to the intersection of the 10-foot elevation contour with the western span of the Garden State Parkway east of Clermont; then

(5) Proceed southwest along the Garden State Parkway to the intersection of the road with Uncle Aarons Creek; then

(6) Proceed westerly (upstream) along Uncle Aarons Creek to the intersection of the creek with the 10-foot elevation contour near the headwaters of the creek; then

(7) Proceed easterly, then southwesterly along the 10-foot elevation contour, crossing onto the Stone Harbor quadrangle, then onto the northwesternmost corner of the Wildwood quadrangle, then onto Cape May quadrangle, to the intersection of the 10-foot elevation contour with State Route 109 and Benchmark (BM) 8, east of Cold Spring; then

(8) Proceed southeast, then south, along State Route 109 to the intersection of the road with the north bank of the Cape May Canal; then

(9) Proceed northwest along the north bank of the Cape May Canal to the intersection of the canal with the railroad tracks (Pennsylvania Reading Seashore Lines); then

(10) Proceed south along the railroad tracks, crossing the canal, to the intersection of the railroad tracks with the south bank of the Cape May Canal; then

(11) Proceed east along the canal bank to the intersection of the canal with Cape Island Creek; then

(12) Proceed south, then northwest along the creek to the intersection of the creek with a tributary running north-south west of an unnamed road known locally as 1st Avenue; then

(13) Proceed north along the tributary to its intersection with Sunset Boulevard; then

(14) Proceed northwest along Sunset Boulevard to the intersection of the road with Benchmark (BM) 6; then

(15) Proceed south in a straight line to the shoreline; then

(16) Proceed west, then northwest, then northeast along the shoreline, rounding Cape May Point, and continuing northeasterly along the shoreline, crossing onto the Rio Grande quadrangle, then onto the Heislerville quadrangle, to the intersection of the shoreline with West Creek; then

(17) Proceed generally north along the meandering West Creek, passing through Pickle Factory Pond and Hands Millpond, and continuing along West Creek, crossing onto the Port Elizabeth quadrangle, and continuing along West Creek to the fork in the creek north of Wrights Crossway Road; then

(18) Proceed along the eastern fork of West Creek to the cranberry bog; then

(19) Proceed through the cranberry bog and continue northeasterly along the branch of West Creek that exits the cranberry bog to the creek's terminus south of an unnamed road known locally as Joe Mason Road; then

(20) Proceed northeast in a straight line to Tarkiln Brook Tributary; then

(21) Proceed easterly along Tarkiln Brook Tributary, passing through the cranberry bog, crossing onto the Tuckahoe quadrangle, and continuing along Tarkiln Brook tributary to its intersection with the Tuckahoe River and the Atlantic-Cape May County line; then

(22) Proceed easterly along the Atlantic-Cape May County line, crossing onto the Marmora and Cape May quadrangles, to the intersection of the Atlantic-Cape May County line with the Garden State Parkway on the Cape May quadrangle; then

(23) Proceed south along the Garden State Parkway, returning to the beginning point.

John J. Manfreda,

Administrator.

[FR Doc. 2016–21586 Filed 9–7–16; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. OSHA–2013–0022]

RIN 1218–AA68

Fall Protection in Shipyard Employment

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Request for information (RFI).

SUMMARY: OSHA is considering revising and updating its safety standards that address access and egress (including stairways and ladders), fall and falling object protection, and scaffolds in shipbuilding, ship repair, shipbreaking, and other shipyard related employment (collectively referred to as "shipyard employment" in this document). The Agency has not updated these standards since adopting them in 1971. To assist with this determination, OSHA requests comment, information and data on a number of issues, including: The workplace hazards these standards address, particularly fall hazards; the current practices employers in shipyard employment use to protect workers from those hazards; any advances in technology since OSHA adopted the standards in subpart E; and the revisions and updates to subpart E that stakeholders recommend. OSHA will use the information received in response to this RFI to determine what action, if any, it may take.

DATES: Submit comments and additional material on or before December 7, 2016.

ADDRESSES: Submit comments and additional material using one of the following methods:

Electronically: You may submit comments and attachments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions online for making electronic submissions.

Facsimile (FAX): You may fax submissions if they do not exceed 10 pages, including attachments, to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand (courier) delivery, or messenger service: You may submit comments and any additional material (*e.g.,* studies, journal articles) to the OSHA Docket Office, Docket No. OSHA–2013–0022, Technical Data Center, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2350 (TDY number (877) 889–5627). Please note that security procedures may result in a significant delay in receiving comments and other written materials submitted by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

Instructions: All submissions received must include the Agency name and the docket number for this document (Docket No. OSHA–2013–0022). OSHA places all submissions, including any personal information provided, in the docket without change and this information may be available online at *http://www.regulations.gov.* Therefore, the Agency cautions individuals about submitting information they do not want made publicly available or submitting comments that contain personal or personally-identifiable information (about themselves or others) such as Social Security numbers and birth dates.

Docket: To read or download submissions and other material in the docket, go to *http://www.regulations.gov.* While the Agency lists all documents in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are accessible at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, are available at OSHA's Web page at *http://www.osha.gov.*

FOR FURTHER INFORMATION CONTACT:

Press inquiries: Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA Directorate of Standards and Guidance, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2222; fax: (202) 693–1663; email: *wangdahl.amy@dol.gov.*

SUPPLEMENTARY INFORMATION:

References and exhibits. In this **Federal Register** document OSHA references materials in Docket No. OSHA–2013–0022. OSHA has also incorporated in this docket materials from the following dockets:

- Docket Nos. S–205, S–205A and S–205B, which is the record from the scaffolds in construction rulemaking (29 CFR part 1926, subpart L);
- Docket No. S–041, specifically the scaffold-related materials pertaining to the 1990 proposed rule on walking-working surfaces in general industry; and
- Docket No. S–047A, the materials from the limited reopening of the record of the Safety Standards for Scaffolds Used in Shipyard Employment rulemaking (29 CFR part 1915, subpart N).

References to materials incorporated into this RFI docket are given as "Ex." followed by the last sequence of numbers in the document identification (ID) number in Docket No. OSHA–2013–0022. For example, "Ex. 100" refers to document ID number OSHA–2013–0022–0100 in this RFI docket.

In addition, OSHA incorporates by reference the following dockets:

- Docket No. OSHA–2007–0072, which is the record from the general industry Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) rulemaking (hereafter referred to as the "proposed general industry Walking-Working Surfaces rule" or the "Proposed Rule" in this document) (29 CFR part 1910, subparts D and I);
- Docket No. OSHA–2010–0001, which is the record from the 2010 meetings of the Maritime Advisory Committee on Occupational Safety and Health (MACOSH); and
- Docket No. OSHA–2011–0007, which is the record from the 2011 meetings of MACOSH.

In this RFI, referenced materials in those three dockets are given as "Ex." followed by the full document identification (ID) number for the document in that docket. For example, "Ex. OSHA–2011–0007–0003" refers to minutes of the July 14, 2010, MACOSH meeting in Docket No. OSHA–2011–0007.

Table of Contents

I. Background
  A. Introduction
  B. Regulatory History
II. Request for Information, Data, and Comments
  A. General Issues
  B. Subpart E—Stairways, Ladders and Access and Egress
  C. Subpart M—Fall and Falling Object Protection
  D. Subpart N—Scaffolds
  E. Outdated Requirements, Technological Advances and Industry Best Practices
III. Economic Impacts
IV. Public Participation
Authority and Signature

I. Background

A. Introduction

OSHA is considering revising and updating its shipyard employment Scaffolds, Ladders and Other Working Surfaces standards (29 CFR part 1915, subpart E). OSHA adopted these standards in 1971, pursuant to section 6(a) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 655),[1] and they have not been updated since. OSHA believes that revising subpart E may be needed for several reasons.

First, workplace slips, trips and falls, particularly falls to a lower level, continue to be a major cause of worker fatalities and injuries in shipyard employment. Bureau of Labor Statistics (BLS) Census of Fatal Occupational Injuries data from 1992–2014 indicate that on average 40 percent of all fatal occupational incidents in shipyard employment resulted from falls to a lower level. Also, OSHA Integrated Management Information System (IMIS) data indicate 32 falls resulting in death or hospitalization occurred in shipbuilding and ship repair (NAICS 336611) between 2002 and 2014. Of those falls, 24 (80%) resulted in a fatality. The IMIS data shows the falls were from various workplace surfaces, including scaffolds, ladders, stairways, platforms, drydocks, and ship decks. OSHA also notes that nine struck by falling object injuries occurred in shipyard employment during that same period, seven (78%) of which resulted in death.

According to BLS occupational injury data from 2003–2013, an average of 642 slip, trip and fall injuries involving days away from work (DAFW) occurred annually in shipyard employment. This accounts for approximately 22 percent of all DAFW injuries in this industry. Slips, trips and falls are the third leading cause of DAFW injuries in shipyard employment, behind overexertion and contact with equipment.

Second, the standards in subpart E are not comprehensive in their coverage of slip, trip and fall hazards in shipyard employment and are supplemented by applicable general industry standards (29 CFR part 1910, subparts D, E and I) to fill the gaps in subpart E's coverage of those hazards (29 CFR 1910.5(c)(2)).[2] However, this approach requires that shipyard employers look in both parts 1915 and 1910 to find the standards on fall and falling object protection, scaffolding and access/egress that apply to shipyard employment. Stakeholders in shipyard employment and MACOSH have urged OSHA repeatedly to consolidate all standards applicable to shipyard employment into part 1915 so they only have to follow one set of standards (53 FR 48092 (11/29/1988); Exs. OSHA–2011–0007–0003; OSHA–2010–0001–0034).

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[1] Section 6(a) allowed OSHA, during the first two years after the OSH Act became effective, to promulgate as an occupational safety and health standard any national consensus standard or any established Federal standard, such as the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941).

Third, the standards in subpart E are outdated and do not reflect advances in technology or industry best practices developed since OSHA adopted subpart E.

Comments received from the U.S. Navy and MACOSH members (Exs. OSHA–2011–0007–0003; OSHA–2010–0001–0034), as well as other stakeholders, expressed similar issues with subpart E and its need for revision.

To assist OSHA in determining whether to initiate rulemaking, the Agency requests comment on revising and updating subpart E, including information on:

- Revising and updating shipyard employment standards that address slip, trip and fall hazards;
- Increasing consistency in the shipyard employment, general industry and construction standards that address fall and falling object protection, scaffolding and access/egress;
- Identifying technological advances, industry best practices, and outdated provisions;
- Consolidating general industry standards into part 1915; and
- Reorganizing subpart E standards into three subparts (subparts E, M, and N).

B. Regulatory History

As mentioned, in May 1971 OSHA adopted established Federal standards issued under section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941) as standards applicable to ship repairing, shipbuilding, and shipbreaking. At that time, OSHA also adopted other established Federal standards and national consensus standards as general industry and construction standards. These standards cover hazards and working conditions that shipyard employment standards did not address, but nevertheless often applied to shipyard employment.

On April 20, 1982, OSHA consolidated its ship repairing, shipbuilding, and shipbreaking standards into one part (part 1915) titled "Occupational Safety and Health Standards for Shipyard Employment" (47 FR 16984). The consolidation eliminated duplicate and overlapping provisions. It did not alter substantive requirements or affect the applicability of general industry standards to shipyard hazards and working conditions not specifically addressed in part 1915 shipyard employment standards (29 CFR 1910.5(c)(2)). General industry standards continue to apply to shipyard employment to fill gaps when part 1915 standards do not address a particular hazard or working condition.

Thereafter, OSHA proposed to revise subpart E in November 1988 (53 FR 48130 (11/29/1988)), and reopened the rulemaking record in April 1994 (59 FR 17290 (4/12/1994)) to request additional information on the 1988 proposal. The intent of the rulemaking was to update the shipyard employment standards and consolidate OSHA access/egress, fall and falling object protection, and scaffold standards applicable to shipyard employment into subpart E, so employers would have a single set of standards to follow. However, the proposal and record reopening received only a few comments, and due to other Agency priorities, OSHA did not continue the rulemaking.

In 2010, OSHA proposed to revise and update its general industry Walking-Working Surfaces standards (29 CFR part 1910, subparts D and I), which, like the subpart E standards, were adopted in 1971 and had not been updated (75 FR 28862 (05/24/2010)). The Proposed Rule incorporated provisions from updated national consensus standards and OSHA construction standards, particularly the scaffold requirements. One of the purposes of the rulemaking was to make the general industry standards more consistent with the construction Stairways and Ladders (subpart X), Fall Protection (subpart M) and Scaffolds (subpart L) standards, which OSHA revised and updated in 1990, 1994 and 1996, respectively (55 FR 47687 (11/14/1990); 59 FR 40730 (8/9/1994); 61 FR 46104 (8/30/1996)). OSHA held an informal public hearing on the general industry Proposed Rule in January 2011, and is in the process of completing the final rule.

II. Request for Information, Data, and Comments

OSHA requests information, comments and data to determine whether there is a need for rulemaking to revise and update subpart E. Specifically, OSHA requests comment on incorporating into subpart E provisions from the proposed general industry Walking-Working Surfaces rule. Requirements in the Proposed Rule are noted below. OSHA also requests comment on consolidating existing general industry standards on access/egress and fall and falling object protection into subpart E. Finally, OSHA requests comment on regrouping subpart E standards into three separate subparts (subparts E, M, and N). OSHA will carefully review and evaluate the information, data, and comments received in response to this **Federal Register** document to determine what action, if any, may be needed.

A. General Issues

1. *Fatalities and injuries.* As mentioned, workplace slips, trips and falls, especially falls to a lower level, are a significant cause of worker fatalities and injuries in shipyard employment. OSHA requests information and data on slip, trip and fall injuries and fatalities at your establishment during the past 5 years. What percentage of injuries and fatalities at your establishment do these incidents represent? Please explain where the injuries and fatalities resulting from falls to a lower level occurred (*e.g.,* ladders, scaffolds, vessel sections, docks), the circumstances involved, and what fall protection (*e.g.,* guardrails, personal fall arrest system), if any, was used.

2. *Consolidation.* As mentioned, OSHA is considering consolidating existing general industry access/egress, fall and falling object protection standards into part 1915 so that employers may have these standards together in one part of the Code of Federal Regulations.[3]

OSHA believes that consolidating requirements from general industry into a single set of shipyard employment standards would make it easier for employers and workers to understand and follow applicable requirements. As OSHA explained in its 1988 proposal, having a single set of shipyard employment standards would eliminate the possibility that employers would interpret the applicability of general industry standards in different ways and ensure that employers and workers know what requirements apply to shipyard employment activities (53 FR 48092). In addition, consolidating those applicable standards into part 1915 would utilize an organizational approach that already is familiar to shipyard employment employers and workers (53 FR 48092–93). For example, subpart E addresses access/egress requirements for shipyard employment, while applicable general industry access/egress standards are in two different subparts of part 1910 (subparts D and E).

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[2] Additionally, construction standards apply when shipyard workers perform construction activities.

[3] Previous rulemakings where OSHA has consolidated general industry and construction standards into part 1915 include: (1) Subpart B—Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment (59 FR 37816 (7/25/1994)); (2) Subpart I—Personal Protective Equipment in Shipyard Employment (61 FR 26322 (5/24/1966)); and (3) Subpart P—Fire Protection in Shipyard Employment (69 FR 55702 (10/15/2004)).

To what extent will consolidation of existing general industry access/egress and fall and falling object protection standards into part 1915 make compliance easier for your establishment and shipyard employment employers and workers to understand and follow? Discussion of the consolidation of specific standards into part 1915 is in sections II–B, II–C and II–D.

3. *Reorganization of standards.* OSHA is considering reorganizing the standards in subpart E into three subparts:

- Subpart E—Stairways, Ladders and Access/Egress;
- Subpart M—Fall and Falling Object Protection; and
- Subpart N—Scaffolds.

The Agency believes grouping the requirements into separate subparts may make it easier for employers and workers to understand and follow the standards that apply to shipyard employment.

OSHA invites comment on an option of reorganizing subpart E into three subparts. Do the three subparts that OSHA is considering provide for a more understandable and logical structure? If not, what organization would you recommend? Please describe any unique or special circumstances that OSHA may need to take into account when considering the reorganization of subpart E.

4. *Scope.* OSHA is considering combining the individual scope provisions contained in each section of subpart E into one scope section for each of subparts E, M, and N. OSHA has done this when revising and updating other subparts of part 1915.[4] The existing scope provisions in subpart E specify the provisions in each section that apply to each sector of shipyard employment (*i.e.*, ship repairing, shipbuilding, shipbreaking). Combining the scope provisions would eliminate duplication, provide clarity about the standards' application, and be consistent with other subparts of part 1915 that OSHA has revised.

OSHA requests comment on an option of combining the scope provisions currently spread throughout subpart E's various sections into one section—dedicated to "scope" in subparts E, M and N, respectively. Would this combination aid employers and employees in understanding the standard's applicability, or cause confusion?

5. *Definitions.* The proposed general industry Walking-Working Surfaces rule defines the key terms in the proposed standards (proposed §§ 1910.21(b), 1910.140(b)). Those definitions are consistent with the definitions in the corresponding construction standards (§§ 1926.500(b), 1926.1050(b)). The construction scaffold standards also defines key terms (§ 1926.450(b)). Subpart E, by contrast, does not define any terms.

OSHA requests comment about an option of adopting into part 1915 the proposed general industry Walking-Working Surfaces rule definitions, and the construction scaffold definitions. Please discuss whether there are other terms pertaining to access/egress, fall and falling object protection, and scaffolds that OSHA should define and how OSHA should define them.

B. Subpart E—Stairways, Ladders and Access and Egress

As mentioned, the provisions in part 1915 are not comprehensive in their coverage of access/egress hazards in shipyard employment. Part 1915 contains some requirements that pertain to those hazards (*e.g.*, subpart E; § 1915.81); however, the part does not provide complete coverage and must be supplemented by general industry provisions. For example, subpart E contains provisions on ladders and stairways, but they are limited or cover only certain types of ladders and stairways.

1. General Revisions

a. *Walking-working surface strength.* The proposed general industry Walking-Working Surfaces rule requires that employers ensure walking-working surfaces can support the "maximum intended load" for that surface (proposed § 1910.22(b)), which OSHA defines as the total load (weight and force of all employees, equipment, vehicles, tools, materials, and other loads the employer "reasonably anticipates" to be applied to a walking-working surfaces at any one time (proposed § 1910.21(b)). Similarly, the construction fall protection standard requires that employers determine whether walking-working surfaces have the "strength and structural integrity" to support workers safely (§ 1926.501(a)(2)). Part 1915 does not contain similar requirements.

OSHA requests comment about an option of adopting the Proposed Rule's strength requirements into part 1915. Please discuss what practices and procedures your establishment uses (or employers should use) to ensure that walking-working surfaces (*e.g.*, floors, ladders, elevated work areas) are capable of supporting the maximum load intended for that surface. What criteria, factors and methods does your establishment use (or should employers use) to determine whether a walking-working surface is capable of supporting the weight and force of the workers, tools and materials reasonably anticipated to be applied to it?

b. *Inspection of walking-working surfaces.* The proposed general industry Walking-Working surface rule requires that employers inspect walking-working surfaces regularly and periodically to ensure surfaces are maintained in a safe condition and correct or guard hazardous conditions to prevent workers from being injured or killed (proposed § 1910.22(d)(1) and (2)). If a repair involves the structural integrity of the walking-working surface, a qualified[5] person must perform or supervise the repair (proposed § 1910.22(d)(3)). While § 1915.81 requires good housekeeping in walkways and working surfaces, no requirements in part 1915 specifically address regular or periodic inspections of all walking-working surfaces or indicate who must perform repairs or correct deficiencies. Part 1915 also does not address the qualifications of persons who make structural repairs to walking-working surfaces.

OSHA requests comment on an option of adopting the Proposed Rule's inspection and repair requirements into part 1915. What inspection practices and procedures does your establishment have (or should employers implement) to ensure walking-working surfaces are maintained in a safe condition? How frequently does your establishment inspect (or should employers inspect) walking-working surfaces? What does your establishment do (or should employers do) when an inspection identifies hazardous conditions that need correction, including corrections that involve the structural integrity of the walking-working surface? Who conducts inspections and performs or oversees repairs at your establishment and what qualifications do (or should) these workers have?

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[4] See for example, General Working Conditions (29 CFR part 1915, subpart F).

[5] The proposed rule defines a "qualified" person as a person who, by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training, and experience has successfully demonstrated the ability to solve or resolve problems related to the subject matter, the work, or the project (proposed § 1910.21(b)).

c. *Access/egress.* The proposed general industry Walking-Working Surfaces rule requires that employers ensure workers have and use safe means of access to and from walking-working surfaces (proposed § 1910.22(c)). The existing general industry means of egress standards (29 CFR part 1910, subpart E—Exit Routes, Emergency Action Plans, and Fire Prevention Plans) require that employers ensure workers have adequate and safe exit routes for evacuation during emergencies (§§ 1910.34–1910.37). However, the existing general industry means of egress standards do not apply to "mobile workplaces" and specifically exclude vessels and vehicles (§ 1910.34(a)). While part 1915 contains specific access requirements for vessels, dry docks, marine railways, cargo and confined spaces (§§ 1915.74–1915.76), it has no general access/egress requirements for other walking-working surfaces.

OSHA requests comment about an option of adopting the Proposed Rule and the existing general industry means of egress standards into part 1915. OSHA also requests comment on extending the general industry means of egress standards to vessels and vessel sections. What practices and procedures does your establishment have (or should employers implement) to ensure workers have a safe means of access to, and egress from walking-working surfaces? Please discuss whether your exit route practices and procedures include vessels/vessel sections? Please explain in what situations or circumstances, if any, it would not be possible to implement the general industry means of egress provisions on vessels and vessel sections.

d. *Emergency action and fire prevention plans.* The Fire Protection in Shipyard Employment standards (29 CFR part 1915, subpart P) require that employers develop and implement a written fire safety plan that covers all the actions employers must take to ensure employee safety in the event of a fire on shore or on vessels (§ 1915.502). However, these fire prevention requirements do not address other types of emergencies, such as toxic chemical releases and weather-related emergencies (*e.g.,* hurricanes, tornadoes, blizzards, flash floods). Moreover, although the general industry standards may require that on-shore shipyard employment workplaces have an emergency action plan that covers other emergencies (*e.g.,* § 1910.120—Hazardous Waste Operations), they do not apply to vessels (§ 1910.34(a)). Section 1910.38 sets out the requirements of such plans when they are required. The plans must include procedures for reporting emergencies, evacuating workers, operating critical plant operations before evacuation, accounting for evacuated workers, and performing rescue or medical duties (§ 1910.38(b)).

OSHA requests comment on an option of adopting into part 1915 the general industry requirements for emergency action plans and extending their coverage to vessels. Does your establishment have (or should employers have) emergency action plans and in what situations and locations (*e.g.,* vessels) do those plans apply? Please describe any unique or special circumstances that OSHA may need to take into account when considering applying emergency action plans to vessel/vessel sections. To what emergencies, other than fire, do your emergency action plans (or should emergency action plans) apply (*e.g.,* environmental, hazardous chemical spills, radiation release, terrorism)?

2. Specific Revisions

a. *Dockboards.* The existing general industry standards contain requirements on the use and design of dockboards (§ 1910.30(a)). The proposed general industry Walking-Working Surfaces rule updates and expands on those provisions (proposed § 1910.26). The Proposed Rule defines dockboards as a portable or fixed device that spans a gap or compensates for a difference in elevation between a loading platform and a transport vehicle (proposed § 1910.21(b)). Dockboards, also referred to as bridge plates or dock levelers, primarily are used to transfer items from one area to another, such as from a transport vehicle or vessel to a dock or loading area. The Proposed Rule requires that dockboards be designed, constructed, and maintained to prevent transfer vehicles from running off the dockboard edge (proposed § 1910.26(b)). In addition, the Proposed Rule (29 CFR part 1910, subparts D and I) requires that portable dockboards be secured or have substantial contact or overlap to prevent the dockboard from slipping (proposed § 1910.26).

OSHA requests comment on an option of adopting the Proposed Rule's dockboard requirements into 1915. Does your establishment use dockboards to move or transfer items from vehicles and/or vessels/vessel sections. If so, what type of dockboards does your establishment use and in what operations and locations? What practices and procedures does your establishment follow to ensure dockboards are safely used and maintained?

b. *Ladders.* Part 1915 contains only a few requirements on ladders, and those primarily address portable ladders (§ 1915.72). The provisions are not comprehensive and do not include specific requirements for fixed ladders and mobile ladder stands and platforms, therefore, they must be supplemented by general industry standards. The proposed general industry Walking-Working Surfaces rule includes general requirements that apply to all ladders and specific requirements for portable ladders, fixed ladders,[6] and mobile ladder stands and platforms (proposed § 1910.23). These provisions revise and update the existing general industry ladder requirements (§§ 1910.24 through 1910.27).

OSHA requests comment on an option of adopting the Proposed Rule's ladder requirements into part 1915. OSHA requests comment on the types of ladders (*e.g.,* portable, fixed, individual rung ladders) your establishment uses and in what operations and locations. To what extent does your establishment use fixed ladders, including individual rung ladders, in onshore facilities, on vessels/vessel sections, in tanks, and on docks or drydocks? Does your establishment use portable ladders and mobile ladder stands and in what locations and operations?

c. *Inspection of ladders.* Part 1915 does not contain any ladder inspection requirements. The proposed general industry Walking-Working Surfaces rule requires that all ladders be inspected before being used during a work shift to identify visible defects that could injure workers and tag and remove any defective ladder from service until the employer repairs or replaces it (proposed § 1910.23(b)(9) and (10)).

OSHA requests comment on an option of adopting the Proposed Rule's ladder inspection requirements into part 1915. What inspection practices and procedures does your establishment have (or should employers implement) to ensure that ladders are safe to use? How frequently does your establishment inspect (or should employers inspect) ladders? What does your establishment do (or should employers do) when an inspection identifies visible defects in ladders?

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[6] The Proposed Rule defines "fixed ladder" as a ladder that is permanently attached to a building, structure or equipment (proposed § 1910.21(b)). The proposed definition includes fixed individual rung ladders.

d. *Ladder rung spacing.* Part 1915 standards only includes rung spacing requirements for portable wood cleated ladders, which must be uniformly spaced not more than 12 inches apart (§ 1915.72(b)(7) and (c)(1)). As such, the general industry standards on fixed ladders and mobile ladder stand platform rung spacing must supplement the requirements of part 1915. The proposed general industry Walking-Working rule, like the construction ladder standard, requires that ladder rungs, steps, and cleats be spaced not less than 10 inches and not more than 14 inches apart (proposed § 1910.23(b)(2)).

OSHA requests comment on an option of adopting the Proposed Rule's requirements on ladder rung spacing into part 1915. What is the rung spacing on ladders that your establishment uses? What is the rung spacing on fixed ladders and mobile ladder stand platforms that your establishment uses? OSHA also requests comment on an option of adopting the proposed general industry ladder rung spacing requirements into part 1915. Please discuss whether the flexibility of the Proposed Rule would make compliance easier and less expensive for shipyard employment employers.

e. *Carrying objects while climbing ladders.* Carrying objects while climbing ladders is a cause of a number of fall fatalities and injuries for general industry, construction and shipyard employment. In shipyard employment, for example:

- On May 13, 2010, a worker exiting a barge died when he lost his grip and fell off a fixed ladder as he was trying to hand off a broom to another worker and struck his head on a pipe support 11 feet below; and
- On April 11, 2002, a worker died when he slipped and fell off a ladder while carrying a paint can and brush, striking his head on the deck 20 feet below.

Part 1915 does not contain any requirements to prevent workers from falling off ladders while carrying objects. The proposed general industry Walking-Working Surfaces rule, like the relevant construction ladder standard (§ 1926.1053(b)(21) and (22)), requires that workers climbing ladders maintain a grasp on it with at least one hand at all times and not carry any load or object that could cause them to lose balance and fall off the ladder (proposed § 1910.23(b)(12) and (13)).

OSHA requests comment on an option of adopting into part 1915 the Proposed Rule's requirements on carrying objects while climbing ladders. What practices and procedures does your establishment have (or should employers implement) to prevent workers from falling off ladders while carrying objects? What tools and equipment (*e.g.,* tool belts, backpacks, rope lifts) does your establishment use (or should employers have) to move items to elevated work areas? Have any workers at your establishment fallen off a ladder when they were carrying a load or object? If yes, please describe the incident and what practices or changes your establishment implemented in response to the incident.

f. *Stairways.* The proposed general industry Walking-Working Surfaces rule includes requirements for standard stairs as well as for less-commonly used stairways such as spiral stairs, ship stairs[7] and alternating tread-type stairs[8] (proposed § 1910.25) (see Figures 1 and 2).

OSHA requests comment on an option of adopting the Proposed Rule's requirements on spiral stairs, ship stairs and alternating tread-type stairs into part 1915. OSHA also requests comment on the types of stairways your establishment uses in different locations (*e.g.,* in onshore facilities, on drydocks, on vessels/vessel sections). To what extent and in what locations does your establishment use spiral stairs, ship stairs and alternating tread-type stairs? What types of stairways does your establishment use in locations where space is limited?

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[7] The proposed Walking-Working Surfaces rule defines "ship stairs" as stairways that are equipped with treads, has a slope between 50 to 70 degrees from horizontal and open risers (proposed § 1910.21(b)).

[8] The proposed Walking-Working Surfaces rule defines "alternating tread-type stairs" as a series of steps usually attached to a center support in an alternating manner so that a user normally does not have both feet on the same level (proposed § 1910.21(b)).

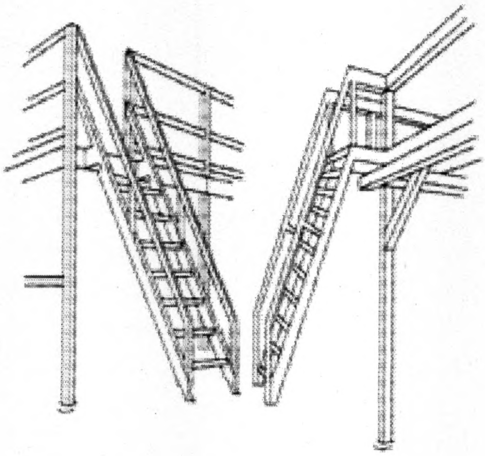

Figure 1 – Ship Stairs[9]

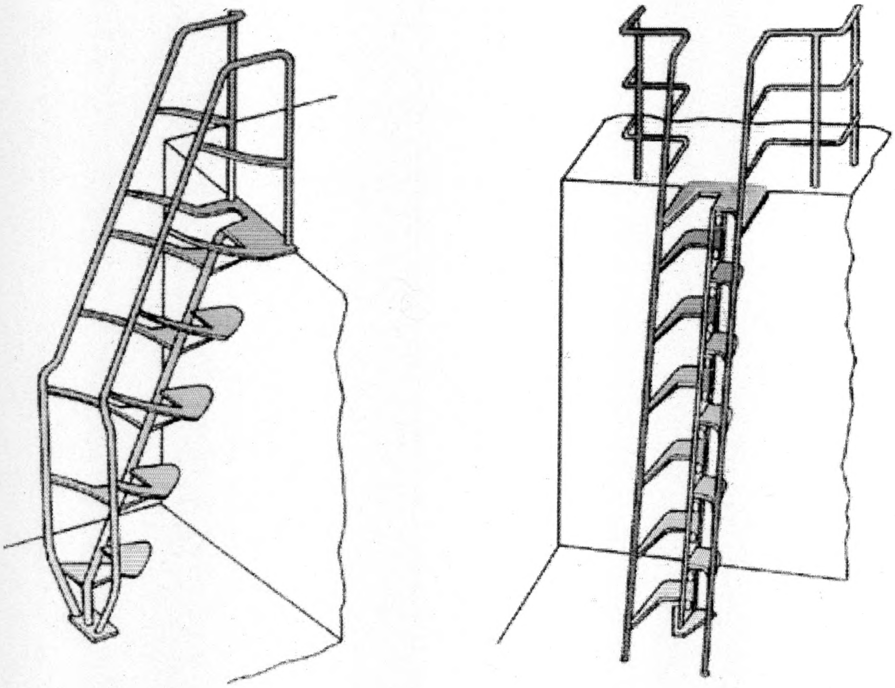

Figure 2 – Alternating Tread-Type Stairs[10]

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[9] Figure 1, which provides an example of ship stairs, was obtained from OSHA's proposed rule on Walking-Working Surfaces (75 FR 29139 (5/24/2010)).

[10] Figure 2, which provides an example of alternating tread-type stairs, was obtained from a fact sheet from the Oregon Occupational Safety and Health Administration addressing Ship's Ladders and Alternating Tread Stairs (OR-OSHA (5/09) FS-34).

C. Subpart M—Fall and Falling Object Protection

As mentioned, falls to a lower level and being hit by falling objects are major causes of worker fatalities in shipyard employment. Examples of fatal fall and falling object incidents in shipyard employment include:

- On June 30, 2004, a maintenance worker was killed when he fell 70 feet through a lubbers' hole, to the main deck. Although the worker was wearing a full body harness, he was not tied off to an anchorage;
- On March 10, 2005, a worker painting a ship died when he fell approximately 57 feet from the open edge when a turnbuckle on a wire rope in the guardrail loosened;
- On February 14, 2008, an employee working on an aircraft carrier ventilation system fell into the water and drowned when he was trying to remove a cover from a plenum. The employer had not provided any fall protection; and
- On November 30, 2010, an employee was killed when a metal frame fell from above and struck him.

OSHA believes that many shipyard employment fatalities and injuries could have been prevented by employers providing and using fall and falling object protection, implementing inspection procedures and providing training.

1. General Revisions

a. *Fall protection options.* OSHA is considering an option of adopting the fall protection requirements in proposed general industry Walking-Working Surfaces rule into part 1915. The Proposed Rule, like the construction fall protection standards, allow employers to select from among accepted conventional fall protection options (*i.e.,* guardrails systems, safety net systems, personal fall protection systems) they believe would work best in the particular situation (§ 1926.501(b)(1), proposed § 1910.28(b)(1)).

OSHA requests comment about an option of adopting the Proposed Rule's fall protection options into part 1915. OSHA also requests comment on what fall protection systems your establishment uses and in what work locations and operations. To what extent would allowing employers to use the fall protection options in the Proposed Rule make it easier and less expensive for your establishment to protect workers from falls?

b. *Inspection of fall protection systems.* Part 1915 does not contain any requirements to inspect fall protection equipment and systems. The proposed general industry Walking-Working Surfaces rule requires that walking-working surfaces, including fall protection equipment, be inspected regularly and as necessary to ensure they are in safe condition (proposed § 1910.22(d)(1)). Specifically, the Proposed Rule, like the construction fall protection standards (§ 1926.502(d)(21)), requires that employers ensure personal fall protection systems be inspected before initial use in each work shift (proposed § 1910.140(c)(18)) and safety net systems be inspected at least weekly and after any occurrence that could affect the system's integrity (§ 1926.502(c)(5), proposed § 1910.29(c)). The Proposed Rule also requires that walking-working surfaces, including guardrail systems and covers, be inspected regularly and periodically to ensure they are in safe condition (proposed § 1910.22(d)(1)).

OSHA requests comment about an option of adopting the Proposed Rule's fall protection inspection requirements into part 1915. What practices and procedures does your establishment use (or should employers implement) for inspecting fall protection? When and how frequently does your establishment inspect (or should employers inspect) fall protection equipment, especially personal fall protection systems and safety net systems? What action does your establishment take (or should employers take) if an inspection reveals any damage or deterioration of the fall protection equipment?

c. *Training.* Part 1915 requires that workers who use personal fall protection systems be trained by employers (§ 1915.152(e)); however, part 1915 does not require that employers train workers who use other types of fall protection (*e.g.,* guardrail systems, ladder-safety systems) or other equipment that involves protection from falls. The proposed general industry Walking-Working Surfaces rule requires that employers train workers who use personal fall protection systems about fall hazards; procedures to minimize them; and the correct procedures for installing/dismantling, inspecting, using, storing and caring for/maintaining personal fall protection systems (proposed § 1910.30(a)). The Proposed Rule also requires that employers train workers in the proper use, care, inspection and storage of equipment subpart D covers, including ladders, dockboards, rope descent systems (RDS), and fall protection (proposed § 1910.30(b)).

OSHA requests comment about an option of adopting the Proposed Rule's training requirements into part 1915. What training does your establishment provide (or should employers provide) on equipment such as fall protection, ladders, and RDS? Does your establishment provide (or should employers provide) retraining and, if so, when or in what circumstances? Who provides the training and what are their qualifications? What measures does your establishment use (or should employers use) to ensure that workers, especially non-English speaking workers, understand the training?

2. Specific Revisions

a. *Guardrail heights.* In part 1915, requirements for minimum guardrail system heights vary depending on what area is being guarded. For example:

- Guardrails of at least 30 inches are required for systems installed around flush manholes and other small openings of comparable size located in decks and other walking or working surfaces aboard vessels and vessel components (§ 1915.73(b));
- Guardrails of at least 33 inches are required for each side of gangways and turntables, if used (§ 1915.74(a)(2));
- Guardrails ranging from 36 inches to 42 inches are required for systems installed around open hatches (not protected by coamings to a height of 24 inches) and other large openings (§ 1915.73(c));
- Guardrails ranging from 42 to 45 inches are required for unguarded edges of decks, platforms and similar flat surfaces more than 5 feet above a solid surface and for catwalks on stiles of marine railways (§§ 1915.73(d) and 1915.75(g));
- Guardrails of approximately 42 inches are required for systems installed on gangways and ramps provided between floating drydocks and the pier or bulkhead, edges of wing walls on graving docks, and where employees are working on the floor of floating drydocks and exposed to the hazard of falling into the water (§ 1915.75(b)–(e)).

By contrast, the existing construction standards and the proposed general industry Walking-Working Surfaces rule establish one uniform height requirement for all guardrails: 42 inches, plus or minus 3 inches[11] (§ 1926.502(b)(1) and proposed § 1910.29(b)(1), respectively).

OSHA requests comment about an option of adopting the Proposed Rule's uniform guardrail height requirement into part 1915. Should all guardrail systems used in shipyard employment meet one height requirement and, if so, what height? If not, please explain why different guardrail heights are necessary or more effective and what factors or work location issues support varying heights. If OSHA adopted a uniform guardrail height requirement into part 1915, how many or what percentage of guardrails would your establishment need to replace?

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[11] The construction and proposed general industry standards also allow guardrails to exceed 45 inches if the guardrail system meets all of the other guardrail criteria (§ 1926.502(b)(1), proposed § 1910.29(b)(1)).

b. *Designated areas, warning line systems and controlled access zones.* Part 1915 does not include any provisions permitting employers to use alternative measures to protect workers from falling off elevated surfaces. In certain situations, the construction standard and the proposed general industry Walking-Working Surfaces rule allow employees to work in certain elevated areas without the use of guardrail systems, personal fall protection systems, or safety net systems. For example, the construction fall protection standard allows employers to use a warning line system[12] for roofing work on low-slope roofs (§ 1926.501(b)(10)). In addition, the construction standard permits employers to use a controlled access zone (CAZs) (*i.e.,* an area where employees can perform leading edge or overhead bricklaying and related work) without conventional fall protection when access to that zone is controlled (§ 1926.501(b)(2)(ii) and (b)(9)).

The Proposed Rule allows the use of designated areas,[13] similar to a warning line system, to perform temporary work at least 6 feet from the unprotected side or edge on a low-slope (*i.e.,* a slope of less than 10 degrees) walking-working surface (proposed §§ 1910.28 and 1910.29(d)). Part 1915 does not contain similar provisions and does not include alternatives to guardrail or personal fall protection systems when employees work a certain minimum distance from an unprotected edge.

OSHA requests comment about an option of adopting the Proposed Rule's requirements that address alternatives to guardrail or personal fall protection systems (*i.e.,* designated areas, warning line systems, CAZs) into part 1915. Please discuss whether there are specific or limited situations in your establishment or in shipyard employment where designated areas, warning line systems and/or CAZs may provide adequate protection (*e.g.,* employees working on an elevated flat surface that is a distance from an unguarded edge or in the middle of a platform or deck). If so, in what work situations and at what distance from an unprotected edge should those fall protection alternatives be allowed and why? In what situations in shipyard employment would any of those fall protection alternatives not provide sufficient protection? To what extent would allowing the use of fall protection alternatives make it easier and less expensive for your establishment to protect workers from fall hazards?

c. *Hoist areas.* Part 1915 does not contain any fall protection requirements to protect employees working in elevated hoist areas. The construction standard and proposed general industry Walking-Working Surfaces rule require that workers in a hoist area or involved in hoisting activities be protected from fall hazards by guardrail systems, personal fall arrest systems or travel restraint systems (§ 1926.501(b)(3), proposed § 1910.28(b)(2)). The construction and proposed general industry standards also specify that if guardrail systems (or chain, gate, or guardrail), or portions thereof, are removed to facilitate hoisting operations and employees must lean through or out over the access opening, they must be protected from fall hazards by a personal fall arrest system.

OSHA requests comment about an option of adopting into part 1915 the Proposed Rule's requirements to use personal fall arrest systems during hoist operations when workers may be exposed to fall hazards. OSHA requests comment on what fall protection your establishment uses (or should employers provide) when guardrail systems, or a portion, must be removed to permit hoisting or line handling activities.

d. *Hole covers.* The construction fall protection standard requires that all hole covers be color coded or marked with the word "HOLE" or "COVER" to provide warning of the hazard (§ 1926.502(i)(4)). Part 1915 does not have a similar requirement. Employers in shipyard employment frequently use pieces of plywood as covers with no mark to distinguish covered holes from debris.

OSHA requests comment about an option of adopting into part 1915 the construction provision that requires hole covers to be painted or otherwise clearly marked to indicate their function as a cover. OSHA requests comment on what your establishment and the shipyard employment industry does (or should employers use) to indicate the location of covered holes.

e. *Dangerous equipment.* Part 1915 does not contain any fall protection requirements to protect workers from falling on or into dangerous equipment. The construction and proposed general industry Walking-Working Surfaces rule fall protection standards require that employers protect workers from falling into or onto dangerous equipment by use of a guardrail, safety net, travel-restraint or personal fall arrest system (§ 1926.501(b)(8), proposed § 1910.28(b)(6)).

OSHA requests comment about an option of adopting the Proposed Rule's requirements for dangerous equipment into part 1915. What protection does your establishment use (or should employers provide) to protect workers from falling into or onto dangerous equipment? At what elevation/height above dangerous equipment does your establishment provide (or should employers provide) particular fall protection?

f. *Fall protection on fixed ladders.* Part 1915 does not include any fall protection requirements on fixed ladders. The existing general industry standard requires that fixed ladders be equipped with cages or wells (§ 1910.27(d)(1)(ii)). The proposed general industry Walking-Working Surfaces rule gives employers the option of equipping fixed ladders with cages, wells, ladder-safety systems or personal fall arrest systems (proposed § 1910.28(b)(9)).

During the public comment period and the informal public hearing on the Proposed Rule, a number of stakeholders said that cages and wells neither prevent workers from falling off fixed ladders nor protect them from injury when a fall occurs (*e.g.,* Exs. OSHA–2007–0072–0113; OSHA–2007–0072–0155; OSHA–2007–0072–0185; OSHA–2007–0072–0198; OSHA–2007–0072–0329 (1/21/2011), pgs. 18–19, 259)). These stakeholders said cages and wells simply contain employees in the event of a fall and direct them to a lower landing rather than preventing them from hitting a lower level. They also said fixed ladder cages and wells may increase the severity of fall injuries. Therefore, they recommended that fixed ladders be equipped with ladder-safety systems or personal fall arrest systems. Part 1915 does not contain any specific fall protection requirements for fixed ladders.

OSHA requests comment about an option of adding a new requirement into part 1915 to equip new fixed ladders (except permanent fixed ladders on vessels or vessel sections) with personal fall arrest or ladder-safety systems to prevent falls. What type of fall protection equipment does your establishment use (or should employers provide) to protect workers from falling off fixed ladders? What type of fall protection does your establishment provide (or should employers provide) on new fixed ladders? What fall protection does your establishment use (or should employers provide) for workers climbing fixed ladders on vessels/vessel sections? What would be the incremental cost to equip new fixed ladders with personal fall arrest systems or ladder-safety systems?

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[12] The construction fall protection standard defines a "warning line system" as a barrier erected on a roof to warn workers that they are approaching an unprotected roof side or edge and that designates an area in which roofing work may take place without the use of a guardrail, personal fall protection or safety net system (§ 1926.500(b)).

[13] The proposed rule general industry fall protection rule defines "designated area" as a distinct portion of a walking-working surface delineated by a perimeter warning line in which temporary work may be performed without additional fall protection (proposed § 1910.21(b)).

g. *Falling object protection.* The construction standard and proposed general industry Walking-Working Surfaces rule require that workers exposed to falling objects wear head protection and implement one or more of the following: Toeboards; screens; guardrail systems; canopy structures to prevent objects from falling to a lower level and keeping objects far enough from an edge, hole or opening to prevent them from falling; or barricading the area in which objects could fall (§ 1926.501(c), proposed § 1910.28(c)). Part 1915 requires that employers provide head protection to workers where such hazards exist (§ 1915.155(a)(1)), and install toeboards, when necessary, to prevent tools and materials from falling on workers below (§ 1915.71(j)(5)). However, part 1915 does not give employers the option of using screens, guardrail systems, canopy structures or barricades instead of installing toeboards.

OSHA requests comments about an option of adopting the Proposed Rule's requirements on falling object options into part 1915. Please discuss whether the flexibility of the Proposed Rule would make compliance easier and less expensive for shipyard employment employers. In addition to using toeboards to prevent objects from falling, what additional measures, if any, does your establishment use (or should employers provide) to prevent workers on a lower level from being hit by falling objects? Have workers at your establishment been killed or injured by falling objects? If so, please describe the circumstances and what falling object protection (*e.g.*, toeboards, screens, canopies), if any, was used.

D. Subpart N—Scaffolds

As mentioned, OSHA adopted the part 1915 scaffold standards (§ 1915.71) in 1971 from established Federal and national consensus standards and the Agency has never updated them. Likewise, the Agency adopted the general industry scaffold standards (§§ 1910.28 and 1910.29) that same year and in the same manner, and also has not updated them.

In 1988, the Agency proposed to update the shipyard employment scaffold standards, but did not finalize the proposal because the Agency received only limited comment and information. Since then, OSHA has continued collecting information on fall protection and walking-working surfaces, such as scaffolds used in shipyard employment. In its most recent effort, OSHA surveyed a selected cross-section of shipyard employers in July 2013 regarding the types of scaffolds they and the shipyard employment industry use. OSHA surveyed two small shipyard (less than 100 employees) employers, three medium shipyard (100–500 employees) employers, and four large shipyard (500 or more employees) employers. The survey asked those employers the following five questions:

1. Of the existing shipyard employment scaffold requirements, which types of scaffolding systems are still used by the shipyard employment industry?
2. Which types of scaffolding systems are not used in the shipyard employment industry?
3. Are there any types of scaffolding systems currently used in shipyard employment that part 1915 standards do not address (*e.g.,* marine hanging staging and systems scaffolding)?
4. What percentage of each type of scaffold system is used in the shipyard employment industry?
5. Is the shipyard employment industry complying with the scaffold rail height requirement (42 to 45 inches) in the shipyard employment scaffold standard (§ 1915.71(j)(1)) and would the construction standards' scaffold rail height requirement (38 to 45 inches) (§ 1926.451(g)(4)(ii)) provide adequate protection to prevent shipyard employment workers from falling off scaffolds? [14]

The survey results indicated that none of the employers use wood trestle or extension trestle ladders, and very few employers use independent pole wood scaffolds, painters' suspended scaffolds, or horse scaffolds. Most of the medium and large shipyards surveyed still use independent pole metal scaffolds, seven of nine employers use tubular welded frame scaffolds, and five employers use bricklayer's square scaffolds and bracket scaffolds.

The employers indicated that interior hung scaffolds (including marine hanging staging and float, or ship scaffolds) were the next most frequently used type of scaffolding, followed by mobile work platforms and systems, or modular scaffolding. Lastly, a few employers reported using outrigger scaffolds, aluminum joist beam scaffolds, power climbing scaffolds, tube and coupler scaffolds, and boatswain's chairs. Survey results regarding scaffold rail heights are discussed in section II–D–1–h.

OSHA did not find any clear trend on scaffold use among the medium and large shipyards, but noted those shipyards use system scaffolds and independent pole metal scaffolds more than other types of scaffolding in ship repair and shipbuilding operations. About one-half of the shipyard employers reported using aerial lifts and scissor lifts; however, only a couple of employers indicated they use personnel platforms suspended from cranes or derricks. A June 2013 survey of the Scaffold and Access Industry Association (SAIA) conducted among its members reported results comparable with that of the July 2013 survey.[15]

Although the survey information is based on a small cross-section of employers in shipyard employment, OSHA generally believes these employers are typical of the industry as a whole. OSHA requests comment on whether the survey results are typical of the shipyard employment industry. For example, to what extent and in what aspects are the survey results consistent with scaffolds your establishment uses? In addition, to develop the most complete information on scaffolds used in shipyard employment, OSHA requests that stakeholders answer the five survey questions noted above.

1. General Revisions

a. *Construction scaffold standards.* As mentioned, OSHA adopted the shipyard employment and general industry scaffold standards in 1971 and has not updated either one since then. In 2010, OSHA proposed to replace the existing general industry scaffold provisions with the requirement that employers must comply with the construction scaffold requirements (29 CFR part 1926, subpart L) (75 FR 28862 (5/24/2010)).

In the preamble to the proposed general industry Walking Working

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[14] ERG report, dated August 23, 2013, outlines the results from the July 2013 survey of the nine shipyard employers (Ex. 0002).

[15] Results of June 27, 2013, Scaffold and Access Industry Association (SAIA) member survey (Ex. 0003).

Surfaces rule, OSHA explained that adopting the construction scaffold standards would ensure regulatory consistency between the two industries, ease compliance for the many general industry employers who use scaffolds to perform both general industry and construction activities, and increase employer and worker understanding of applicable requirements (75 FR 28884). Moreover, since many general industry employers who use scaffolds also perform construction activities, OSHA said they already were familiar with the construction scaffold standards. In addition, OSHA noted that the construction scaffold requirements, which the Agency issued in 1996 (61 FR 46045 (8/30/1996)), were much more current than the general industry scaffold standards, adopted in 1971 from established Federal standards and national consensus standards and not updated since. Given that the construction scaffold standards contain requirements for the same scaffolds general industry uses, OSHA concluded that incorporating the construction standards into part 1910 would provide a seamless transition for achieving regulatory consistency.

OSHA requests comment on an option of adopting the construction scaffold standards into part 1915. To what extent would adopting construction scaffold standards make compliance easier for your establishment and the shipyard employment industry and make the standards easier for employers and workers to understand and follow? Please discuss whether any construction scaffold standards are not applicable to shipyard employment activities. If so, what activities and why?

b. *Scaffold types—shipyard employment* v. *general industry and construction.* The shipyard employment scaffold standard includes requirements for five specific types of scaffolds (§ 1915.71(c) through (g)) and general requirements for "Other types of scaffolds" (§ 1915.71(h)). Part 1915 must be supplemented by the existing general industry scaffold provisions, which include requirements for more than 20 specific types of scaffolds (§§ 1910.28 and 1910.29). The construction scaffold standards also contain requirements for more than 20 types of scaffolds (§ 1926.452) (see Table 1).

TABLE 1—LIST SCAFFOLDING STANDARDS IN EXISTING PARTS 1915, 1926, AND 1910

Shipyard employment scaffold standards (29 CFR part 1915, subpart E)	Construction scaffold standards (29 CFR part 1926, subpart L)	General industry scaffold standards (29 CFR part 1910, subpart D)
1915.71(c): Independent wood scaffolds	1926.452(a): Pole scaffolds	1910.28(b): Wood pole scaffolds.
1915.71(d): Independent pole metal scaffolds	1926.452(b): Tube and coupler scaffolds	1910.28(c): Tube and coupler scaffolds.
1915.71(f): Painters suspended scaffolds	1926.452(p): Two-point adjustable suspension scaffolds.	1910.28(g): Two-point suspension scaffolds.
1915.71(g): Horse scaffolds	1926.452(f): Horse scaffolds	1910.28(m): Horse scaffolds.
1915.71(e): Wood trestle and extension trestle ladders.	1926.452(n): Step, platform, and trestle ladder scaffolds.	
	1926.452(c): Fabricated frame (tubular welded) scaffolds.	1910.28(d): Tubular welded frame scaffolds.
	1926.452(i): Outrigger scaffolds	1910.28(e): Outrigger scaffolds.
	1926.452(q): Multi-point adjustable suspension scaffolds, stone setters' multi-point adjustable suspension scaffolds, and masons' multi-point adjustable suspension scaffolds.	1910.28(h): Stone setter's adjustable multipoint suspension scaffolds. 1910.28(f): Masons' adjustable multi-point suspension scaffolds.
	1926.452(o): Single-point adjustable suspension scaffolds.	1910.28(i): Single-point adjustable suspension scaffolds. 1910.28(j): Boatswain's chair.
	1926.452(g): Form scaffolds and carpenters' bracket scaffolds.	1910.28(k): Carpenters' bracket scaffolds.
	1926.452(e): Bricklayers' square scaffolds	1910.28(l): Bricklayers' square scaffolds.
	1926.452(u): Needle beam scaffolds	1910.28(n): Needle beam scaffolds.
	1926.452(d): Plasterers', decorators', and large area scaffolds.	1910.28(o): Plasterers', decorators', and large area scaffolds.
	1926.452(t): Interior hung scaffolds	1910.28(p): Interior hung scaffolds.
	1926.452(k): Ladder jack scaffolds	1910.28(q): Ladder jack scaffolds.
	1926.452(l): Window-jack scaffolds	1910.28(r): Window-jack scaffolds.
	1926.452(h): Roof bracket scaffolds	1910.28(s): Roofing bracket scaffolds.
	1926.452(m): Crawling boards (chicken ladders).	1910.28(t): Crawling boards or chicken ladders.
	1926.452(s): Float (ship) scaffolds	1910.28(u): Float or ship scaffolds.
	1926.452(w): Mobile scaffolds	1910.29(e): Mobile work platforms.
	1926.452(r): Catenary scaffolds.	

OSHA requests information on what types of and how many scaffolds your establishment and the shipyard employment industry use and in what operations and locations (*e.g.,* on decks, drydocks, vessels, vessel sections). To what extent does your establishment and the shipyard employment industry use (1) supported scaffolds (*e.g.,* frame or fabricated scaffolds); (2) suspension scaffolds (*e.g.,* single-point, two-point, multi-point suspension (swinging scaffolds)); and (3) mobile scaffolds (which are a type of supported scaffold set on wheels or casters)? Does your establishment or the shipyard employment industry use any types of scaffolds that the construction scaffolds standards cover, but not part 1915 or applicable general industry scaffold standards? What types of scaffolds, if any, does your establishment or the shipyard employment industry use that no OSHA standard covers? What additional or new scaffolding systems OSHA should consider covering if the Agency revises the shipyard employment scaffold standard?

c. *Inspection of scaffolds.* The shipyard employment scaffold standard requires that employers maintain scaffolds in safe condition and replace components that are damaged, broken or defective (§ 1915.71(b)(5)). However, it does not contain a scaffold inspection requirement (§ 1915.71). The construction scaffold standard requires employers to ensure that a competent person[16] inspects scaffolds and their components for visible defects before each work shift and after any occurrence that could affect a scaffold's structural integrity (§ 1926.451(f)(3)). Examples of such occurrences include impact loadings caused by vehicles, hoists, extremely high winds; and other events that place heavy stress on the scaffold system.

OSHA requests comment about an option of adopting the construction scaffold inspection requirement into part 1915. What scaffold inspection practices and procedures does your establishment (or should employers) use to ensure scaffolds are safe for workers to use? How frequently does your establishment (or should employers) inspect scaffolds? What actions does your establishment (or should employers) take when an inspection identifies scaffold damage or deterioration? Also, what qualifications do employees performing the inspections possess? How much time does it take to inspect the scaffolds that your establishment uses?

d. *Weather conditions.* The shipyard employment scaffold standard does not contain any requirements addressing the use of scaffolds during hazardous weather conditions; therefore, the general industry scaffold requirements apply. The general industry standard prohibits employees from working on scaffolds during "storms or high winds" (§ 1910.28(a)(18)). Construction scaffold standards also prohibit employers from permitting employees to work on or from supported scaffolds during storms or high winds but allows an exception when (1) a competent person has determined that it is safe for workers to be on the scaffold; and (2) those employees are protected by a personal fall arrest system or wind screens (if the scaffold is secured against the anticipated wind forces) (§ 1926.451(f)(12)).

OSHA requests comment on an option of adopting the construction scaffold requirements on hazardous weather conditions into part 1915. To what extent would the added flexibility the construction scaffold standard provides make compliance easier and reduce costs while still providing the same level of protection as the applicable general industry scaffold requirement? What safety practices and procedures has your establishment and the shipyard employment industry implemented to ensure that employees working on or from scaffolds, particularly supported and suspension scaffolds, are protected from hazardous weather conditions? What weather conditions (*e.g.,* high winds, thunderstorms, snow storms, lightening) do your safety practices and procedures address? Do your practices/procedures prohibit work on certain types of scaffolds (*e.g.,* suspended/suspension scaffolds) during storms and in high winds, and, if so, when is work prohibited and who makes that determination?

e. *Erecting and dismantling scaffolds.* The construction scaffold standards require that employers provide fall protection for workers erecting and dismantling supported scaffolds unless a competent person determines that the installation and use of fall protection (1) is not feasible; or (2) would create a greater hazard (§ 1926.451(g)(2)). The shipyard employment scaffold standard does not contain a requirement that specifically addresses the use of fall protection while erecting and dismantling scaffolds. However, the shipyard scaffold standard requires that employers ensure supported or suspended scaffolds more than 5 feet above a solid surface or water be equipped with railings (§ 1915.71(j)(1)). In addition, the shipyard employment PPE standard requires that employers provide personal fall protection equipment when a hazard assessment indicates there are hazards present, or likely to be present, that necessitate the use of PPE (§ 1915.152(a) and (b)).

OSHA requests comment on an option of adopting into part 1915 the construction scaffold requirements to provide fall protection when workers erect and dismantle supported scaffolds. What fall protection does your establishment and the shipyard employment industry use to protect workers from falling while erecting and dismantling supported scaffolds? Please explain whether there are any type(s) of supported scaffolds or any situations (*e.g.,* work conditions, restrictions, unique hazards) where it is impossible for your establishment or the shipyard employment industry to use fall protection while erecting/dismantling scaffolds. If fall protection is impossible to use in a specific situation, please explain what alternative measures your establishment and the shipyard employment industry use to protect workers from falls.

f. *Front edge distance.* The construction scaffold standards require that the front edge of scaffold platforms be no more than 14 inches from the "face of the work" (*e.g.,* vessel/vessel section, building, structure), unless the employer (1) installs a guardrail system along the front edge, and/or (2) provides and ensures workers use a personal fall arrest system (§ 1926.451(b)(3)). The shipyard employment scaffold standard does not contain a specific front edge distance requirement, but it requires:

- Employees to be protected by a personal fall arrest system where scaffold rails are not installed on scaffolds that are more than five feet above a solid surface (§ 1915.71(j)(3));
- Employees to be protected from falling toward the vessel by use of a railing or personal fall arrest system that is attached to the backrail when working from swinging scaffolds that are triced out of vertical line with their supports (§ 1915.71(j)(4)); and
- Employees to be protected from falling toward the vessel by use of a railing or personal fall arrest system that is attached to the backrail when working from scaffolds on paint floats subject to surging (§ 1915.71(j)(4)).

OSHA seeks public comment on an option of adopting into part 1915 the construction scaffold requirement on front edge distance. What safety practices or rules does your establish and shipyard employment industry have to ensure that workers are protected from falling off the front edge of scaffold platforms? Please explain whether your practices/rules specify a maximum space that is permitted between the front edge and the face of the work (*e.g.,* vessel/vessel section) and, if so, what is the maximum distance and why.

g. *Fall protection height.* Part 1915 requires that employers ensure their employees working on any supported or suspended scaffold five feet or more above a solid surface are protected from falling to a lower level (§ 1915.71(k)(1)). The construction scaffold standards, on the other hand, require that any employee working on a scaffold more than 10 feet above a lower level be protected from falling to that lower level (§ 1926.451(g)(1)).

OSHA requests comment on an option of adopting the 10-foot fall protection height requirement in the construction scaffold standards into part 1915, which would make the shipyard employment and construction scaffold standards consistent. Please discuss whether the added flexibility the construction scaffold standards provide would make compliance easier and less expensive for shipyard employment employers while still providing adequate fall protection for employees working on scaffolds. At what height does your establishment provide fall protection when workers perform construction activities on scaffolds above a solid surface and why?

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[16] The construction scaffold standard defines a "competent person" as capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them (§ 1926.450(b)). Section 1915.4(o) similarly defines competent person.

h. *Scaffold rail height.* The shipyard employment scaffold standard requires that the height of scaffold top rails be 42 to 45 inches (§ 1915.71(j)(1)). By contrast, the construction scaffold standards require that scaffolds manufactured or placed into service after January 1, 2000, have a top-rail height of between 38 to 45 inches (§ 1926.451(g)(4)(ii)). The construction standards also specify that the top-rail height of scaffolds manufactured or put into service before January 1, 2000, must be between 36 to 45 inches. Also, in some cases, the construction standards permit scaffold top rails to exceed 45 inches "[w]hen conditions warrant."

The July 2013 survey of a cross section of employers in shipyard employment also asked the employers about scaffold top-rail heights. Five employers said they comply with the scaffold rail height requirement in § 1915.71, while three employers indicated their shipyards were not in compliance. Two employers did not indicate whether their shipyards comply with the § 1915.71 scaffold rail height requirement, but said they support allowing shipyard employment establishments to comply with the construction rail height requirement.

Three employers support retaining the existing rail height requirement in § 1915.71, stating that a lower rail height would not adequately protect workers. However, the other six employers support allowing a scaffold rail height of 38 to 45 inches. Four employers pointed out that some types of system scaffolds do not comply with § 1915.71(j)(1). As a result, employers would have to modify the rails on those scaffolds, which they claimed would potentially compromise worker safety.

Finally, one employer said there were three problems with requiring that employers meet scaffold rail height requirements of part 1915 when performing work on vessels. First, the employer said guardrails permanently installed on many vessels are 38 inches high. Second, the employer said many employers and contractors that work in shipyards also perform construction work and often have difficulty transitioning between the different scaffold rail heights required by the shipyard employment and construction standards. Finally, the employer claimed that there is no proof that scaffold rails that are 42 to 45 inches high provide greater protection than rails that are less than 42 inches, but at least 38 inches high.

OSHA requests comment about an option of adopting the construction scaffold rail height requirement (38 to 45 inches) into part 1915. Please discuss whether the added flexibility that the construction scaffold rail height requirement provides would make compliance easier and less expensive for shipyard employment employers while still providing adequate fall protection for employees working on scaffolds. What rail heights do your establishment and the shipyard employment industry typically use on various types of scaffolds? Are there types of scaffolds your establishment or the shipyard employment industry uses for which OSHA should retain the current scaffold rail height requirement in § 1915.71 and if so, which scaffold types?

2. Specific Revisions

a. *Marine hanging staging (MHS).* In the 1988 proposal (53 FR 48092) and 1994 record reopening (59 FR 17290), OSHA requested comment on the use of marine hanging staging (MHS) scaffold systems in shipyard employment, which were new to the industry at that time. OSHA received few comments and did not finalize the proposal. In April 2005, OSHA published a guidance document titled "Safe Work Practices for Marine Hanging Staging (MHS)," and a Web-based guidance tool (eTool) on MHS in February 2011. OSHA's guidance materials included safety practices from the American National Standards Institute (ANSI)/American Society of Safety Engineers (ASSE) A10.8–2011 Scaffolding Safety Requirements standard (A10.8–2011) and best practices such as job hazard analysis, system key-components (*e.g.,* anchorage and attachments, strut connections, planking) and loading characteristics.

OSHA requests comment on an option to adopt provisions from the OSHA guidance documents and the A10.8 standard into part 1915. To what extent has your establishment and the shipyard employment industry implemented provisions and requirements from those documents? What provisions from the OSHA guidance and A–10.8 standard has your establishment and the shipyard employment industry found to be particularly effective to protect workers using MHS? To what extent does your establishment or the shipyard employment industry use MHS and in what operations and locations?

b. *Mobile scaffolds.* Part 1915 does not contain any requirements on mobile scaffolds. The existing general industry scaffold standard, which applies on vessels and on shore for shipyard employment, includes provisions on manually propelled mobile scaffolds (towers) (§ 1910.29(a)).

In addition to moving mobile scaffolds manually, the construction scaffold standards address the movement of mobile scaffolds by way of "power systems" (§ 1926.452(w)(4)). This provision states that power systems must be designed for such use, and specifically prohibits using forklifts, trucks, similar motor vehicles or add-on motors to move mobile scaffolds "unless the scaffold is designed for such propulsion systems" (§ 1926.452(w)(4)).

OSHA requests comment about an option of adopting into part 1915 the construction requirements for mobile scaffolds. To what extent does your establishment and the shipyard employment industry use mobile scaffolds and in what operations and locations? To what extent does your establishment and the shipyard employment industry move mobile scaffolds with (1) "power systems;" and (2) manually? What types of mobile scaffolds that your establishment uses are designed to be moved by a power/propulsion system and what types are not? For both types of mobile scaffolds, what measures do you take (or should employers take) to ensure the safety of employees working on or near them?

c. *Securing suspended/suspension scaffolds.* Part 1915 does not include any specific requirements for securing suspension/suspended scaffolds (*e.g.,* painters' suspended scaffolds, two-point adjustable suspension scaffolds), and the use of this equipment is governed by the general industry provisions. The existing general industry standard requires that two-point suspension scaffolds and single-point adjustable suspension scaffolds must be securely lashed to the building or structure to prevent the scaffold from swaying (§ 1910.28(g)(11)).

The construction scaffold standards require that employers take the same measures as the general industry standard when it is "determined to be necessary based on an evaluation by a competent person" (§ 1926.451(d)(18)). Both standards prohibit employers from using "window cleaner's anchors" to secure scaffolds (§§ 1910.28(g)(11), 1926.451(d)(18)).

OSHA requests comment on the types of suspension/suspended scaffolds (*e.g.,* two-point suspension scaffolds, single-point adjustable suspension scaffolds, boatswain's chairs) your establishment and the shipyard employment industry use and in what operations and locations. Also, OSHA requests comment on an option of adopting the construction scaffold requirement to secure suspension/suspended scaffolds into part 1915. Please explain whether the added flexibility and consistency the construction scaffold standards would provide would make compliance easier while still ensuring workers are protected from injury due to swaying scaffolds. What equipment or measures does your establishment and shipyard employment industry use to secure suspension/suspended scaffolds from swaying? What factors does your establishment consider in determining whether securing a particular scaffold is necessary and who makes that determination?

d. *Rope descent systems.* The proposed general industry Walking Working Surfaces rule allows employers to use rope descent systems (RDS) (proposed § 1910.27(b)). An RDS is a suspension system that allows a worker to descend in a controlled manner and, as needed, stop at any point during the descent to perform work activities (proposed § 1910.21(b)). It generally consists of a roof anchorage support rope, descent device, carabiner (s) or shackle(s), and a chair or seatboard. An RDS also is called a controlled descent system or equipment. A boatswains' chair is similar to an RDS except is can descend and ascend. Part 1915 does not contain requirements for the use of RDS or similar equipment.

OSHA requests comment on an option of adopting the Proposed Rule's RDS provisions into part 1915. To what extent does your establishment and the shipyard employment industry use RDS or similar equipment (controlled descent systems, mechanical lowering devices, boatswains' chairs) and in what operations and locations? If they are used, at what heights do your establishment and the shipyard employment industry (or should shipyard employment employers) use RDS? What practices or procedures do you follow (or should employers follow) to protect employees using RDS or similar equipment? Please describe whether the added flexibility and consistency the proposed general industry RDS provisions would make compliance easier, increase productivity and result in costs savings while still ensuring workers are protected from injury while performing elevated work.

e. *Stilts.* Part 1915 and general industry standards do not include any provisions addressing the use of stilts on scaffolds. The construction scaffold standards, however, establish requirements on the use of stilts on scaffolds and their maintenance (§§ 1926.452(y)).

OSHA requests comment on an option of adopting the construction stilt requirements into part 1915. To what extent do your establishment and the shipyard employment industry use stilts on scaffolds and on what types of scaffolds and in what operations? What safety practices and procedures do your establishment and the shipyard employment industry have to keep workers safe while using stilts on scaffolds?

E. Outdated Requirements and Technological Advances

OSHA is aware that some requirements in subpart E are outdated and/or insufficient in their coverage of shipyard employment hazards. For example, subpart E contains requirements for scaffold systems that the shipyard employment industry no longer uses, such as pole wood scaffolds and horse scaffolds. Conversely, subpart E does not address marine hanging staging (MHS)/interior hung (or suspended) scaffolds, even though they are commonly used in the shipyard employment. Subpart E also contains outdated terminology, such as "safety belts" (body belts) and "moused" (moussing hooks) (§§ 1915.71(b)(10) and (j)(3), 1915.77(c)). Since 1998, OSHA has prohibited the use of safety belts in personal fall arrest systems under the construction fall protection standard and part 1915 personal fall arrest system standard (§§ 1915.159 and 1926.502(d)). The Agency requests that stakeholders identify outdated requirements and terminology in subpart E and provide recommendations on revising and updating those provisions.

OSHA also requests comment on what technological advances on access/egress, fall and falling object protection, and scaffolds you and the shipyard employment industry are using or are available. What do these new technologies cost and has their use resulted in any cost savings, increases in productivity and/or reductions in worker injuries and fatalities?

III. Economic Impacts

The Agency requests data and information from industry on potential economic impacts if OSHA decides to revise and update the standards in Subpart E. When responding to the questions in this RFI, OSHA requests, whenever possible, that stakeholders discuss potential economic impacts in terms of:

- Quantitative benefits (*e.g.*, reductions in injuries, fatalities, and property damage);
- Costs (*e.g.*, compliance costs or decreases in productivity); and
- Offsets to costs (*e.g.*, increases in productivity, less need for maintenance and repairs).

OSHA also invites comment on any unintended consequences and consistencies or inconsistences with other policies or regulatory programs that might result if OSHA revises the standards in subpart E.

OSHA welcomes all comments but requests that stakeholders discuss economic impacts in as specific terms as possible. For example, if a provision or policy change would necessitate additional employee training, it is most helpful to OSHA to receive information on the following:

- The training courses necessary;
- The types of employees who would need training and what percent (if any) of those employees currently receive the training;
- The length and frequency of training;
- The topics training would cover;
- Any retraining necessary; and
- The training costs if conducted by a third-party vendor or in-house trainer.

For discussion of equipment related costs, OSHA is interested in all relevant factors including:

- The prevalence of current use of the equipment;
- The purchase price;
- Cost of installation and training;
- Cost of equipment maintenance and upgrades; and
- Expected life of the equipment.

The Agency also invites comment on the time and level of expertise required if OSHA were to implement potential changes this RFI discusses, even if dollar-cost estimates are not available.

The Regulatory Flexibility Act (5 U.S.C. 601, as amended) requires that OSHA to assess the impact of proposed and final rules on small entities. OSHA requests comment, information and data on the following inquiries:

1. How many and what kinds of small businesses or other small entities in shipyard employment could be affected if OSHA decides to revise provisions in Subpart E? Describe any such effects. Where possible, please provide detailed descriptions of the size and scope of operation for affected small entities and the likely technical, economic and safety impacts for those entities. In the final rule on General Working Conditions in Shipyard Employment (76 FR 24666 (5/2/2011)) ("Subpart F") industry profile OSHA estimated that all establishments with 100 or more

employees are shipyards; that about 73 percent of establishments with 20–99 employees are contractors who work at shipyards or off-site establishments that perform shipyard employment operations; and that all very small establishments with fewer than 20 employees are contractors or off-site establishments. OSHA requests comment on whether those estimates still reflect the industry today? In the Subpart F final rule OSHA also assumed that most small and all very small establishments in NAICS 336611 (Ship Building and Repairing) are contractors working at shipyards, and are not themselves shipyards. These contract employers, in most cases, will not incur the full cost of compliance due to either their adherence to the host employer's programs or the type of work they perform at shipyards. Is this assumption and conclusion still reasonable?

2. Are there special issues that make the control of fall hazards more difficult in small firms?

3. Are there any reasons that the benefits of reducing exposure to hazards associated with access/egress, scaffolds, and fall protection might be different in small firms than in larger firms? Please describe any specific concerns related to potential impacts on small entities that you believe warrant special attention from OSHA. Please describe alternatives that might serve to minimize those impacts while meeting the requirements of the OSH Act.

IV. Public Participation

OSHA invites interested persons to submit information, comments, data, studies, and other materials on the issues and questions in this RFI. In particular, throughout this RFI OSHA has invited comment on specific issues and requested information and data about practices at your establishment and other workplaces in shipyard employment. When submitting comments to questions or issues raised or revisions to subpart E that OSHA is considering, OSHA requests that the public explain their rationale and, if possible, provide data and information to support their comments and recommendations.

You may submit comments in response to this RFI (1) electronically at *http://www.regulations.gov,* (2) by hard copy, or (3) by facsimile (FAX). All comments, attachments, and other materials must identify the Agency name and the docket number for this document (Docket No. OSHA–2013–0022). You may supplement electronic submissions by uploading document files electronically. If, instead, you wish to provide a hardcopy of additional materials in reference to an electronic submission, you must submit them to the OSHA Docket Office (see **ADDRESSES** section). The additional materials must clearly identify your electronic submission by name, date, and docket number so OSHA can attach them to your comments.

Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. For information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger or courier service, please contact the OSHA Docket Office (see **ADDRESSES** section).

All comments and submissions in response to this RFI, including personal information, are placed in the public docket without change. Therefore, OSHA cautions against submitting certain personal information such as social security numbers and birthdates. All comments and submissions are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through that Web site. All comments and submissions are available at the OSHA Docket Office. Information on using *http://www.regulations.gov* to submit comments and access dockets is available at that Web site. Contact the OSHA Docket Office for information about materials not available through that Web site and for assistance in using the Web site to locate and download docket submissions.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant documents, are also available at OSHA's Web site at *http://www.osha.gov.*

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this document under the authority granted by 29 U.S.C. 653, 655, and 657; 33 U.S.C. 941; 29 CFR part 1911; and Secretary's Order 1–2012 (77 FR 3912).

Signed at Washington, DC, on August 31, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–21369 Filed 9–7–16; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2016–0470; FRL–9951–88–Region 7]

Approval of Missouri's Air Quality Implementation Plans; Open Burning Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) for the State of Missouri related to open burning. On November 24, 2009, the Missouri Department of Natural Resources (MDNR) requested to amend the SIP to replace four area specific open burning rules into one rule that is area specific and applicable state-wide. These revisions to Missouri's SIP do not have an adverse effect on air quality as demonstrated in the technical support document (TSD) which is a part of this docket. EPA's proposd approval of these SIP revisions is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before October 11, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2016–0470, to *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Steven Brown, Environmental

Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7718, or by email at *brown.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?

I. What is being addressed in this document?

EPA is proposing to approve the SIP revision submitted by the state of Missouri that replaces four area specific open burning rules with a rule that is applicable state-wide. On November 24, 2009, the MDNR requested to amend the SIP that recinds Missouri Open Burning Restrictions 10 CSR 10–2.100, 10 CSR 10–3.030, 10 CSR 10–4.090, 10 CSR 10–5.070 and consolidates these four rules into a new rule, 10 CSR 10–6.045. The rule adds language that allows burning of "trade wastes" by permit in areas for situations where open burning is in the best interest of the general public or when it can be shown that open burning is the safest and most feasible method of disposal. The rule reserves the right for the staff director to deny, revoke or suspend an open burn permit. It changes the general provisions section by not limiting liability to an individual who is directly responsible for a violation and extends the regulatory liability to any person, such as a property owner who hires an individual to start the fire. The rule also adds the definition of "untreated wood" for clarification to aid compliance purposes.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail, including a technical analysis in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is proposing approval of revisions to the Missouri SIP regarding an open burn regulation that replaces four area-specific open burning rules. EPA has conducted a full evaluation of the regulation, which is discussed in detail in the TSD, which is in the docket for this rulemaking.

As discussed in detail in the TSD, Missouri submitted emissions and monitoring analyses to make a demonstration that the rule does not violate the requirements of CAA section 110 (l), 42 U.S.C. 7411. In addition, EPA Region 7 performed an analysis of open burning emissions and utilized emissions inventory data from Missouri's Early Progress Plan to analyze over all emissions in the St. Louis area.

EPA believes that consolidating the four rules into one single rule creates less confusion and simplifies open burning restrictions for compliance and implementation. Simplifying the rule and permitting process increases clarity and removes uncertainty in the process of applying for an open burn permit. MDNR credits streamlining the permitting rule and process as the reason for the decrease in illegal open burning attempts in the state, especially in and around the St. Louis area.

The evidence provided in the TSD included in the docket for the rulemaking and Missouri's SIP submittal and rules show the rule change does not interfere with state's ability to attain or maintain an ambient air quality standard nor interfere with state's progress toward attainment. Specifically, MDNR's SIP revision will not compromise the State's efforts to meet and/or maintain the 1997 8-hour ozone, 2008 8-hour ozone, or Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). Therefore, EPA supports approving these SIP revisions that add Missouri rule 10 CSR 10–6.045 to replace four rescinded open burning rules: 10 CSR 10–2.100, 10 CSR 10–3.030, 10 CSR 10–4.090, 10 CSR 10–5.070.

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the proposed amendments to 40 CFR part 52 as set forth below. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

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[1] 62 FR 27968 (May 22, 1997).

application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this proposed action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This proposed action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 2016. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rulemaking for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such future rule or action. This proposed action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 24, 2016.

Mark Hague,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by:

■ a. Removing the entries "10–2.100", "10–3.030", "10–4.090", and "10–5.070".

■ b. Adding the entry "10–6.045" in numerical order.

The addition reads as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * * * *				
10–6.045	Open Burning Requirements	9/30/09	[Date of publication of the final rule in the **Federal Register**] [**Federal Register** citation of the final rule].	
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[FR Doc. 2016–21467 Filed 9–7–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160630573–6573–01]

RIN 0648–BG19

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 45 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council) (Amendment 45). This proposed rule would extend the 3-year sunset provision for the Gulf of Mexico (Gulf) red snapper recreational sector separation measures for an additional 5 years. Additionally, this rule would correct an error in the Gulf red snapper recreational accountability measures (AMs). The purpose of this proposed rule is to extend the sector separation measures to allow the Council more time to consider and possibly develop alternative management strategies within the Gulf red snapper recreational sector.

DATES: Written comments must be received on or before October 24, 2016.

ADDRESSES: You may submit comments on the amendment identified by "NOAA–NMFS–2016–0089" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0089,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Electronic copies of Amendment 45, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, NMFS, telephone: 727–824–5305; email: *Peter.Hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery, which includes red snapper, under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. In meeting these requirements, Amendment 45 would extend a sunset provision implemented through the final rule for Amendment 40 to the FMP (80 FR 22422, April 22, 2015) for an additional 5 years.

Amendment 40 established distinct private angling and Federal for-hire (charter vessel and headboat) components of the Gulf reef fish recreational sector fishing for red snapper, and allocated red snapper resources between these recreational components. The purpose for establishing these separate recreational components was to provide a basis for increasing the stability for the for-hire component and the flexibility in future management of the recreational sector, and to reduce the likelihood of recreational red snapper quota overruns, which could jeopardize the rebuilding of the red snapper stock (the Gulf red snapper stock is currently overfished and is under a rebuilding plan). As a result of the stock status, the actions in Amendment 40 were also intended to prevent overfishing while achieving the OY and rebuilding the red snapper stock, particularly with respect to recreational fishing opportunities.

Amendment 40 defined the Federal for-hire component as including operators of vessels with Federal charter vessel/headboat permits for Gulf reef fish and their angler clients. The private angling component was defined as including anglers fishing from private vessels and state-permitted for-hire vessels. Amendment 40 allocated the red snapper recreational quota between the Federal for-hire and private angling components at 42.3 and 57.7 percent, respectively. The allocation was derived by using historical and recent time series of recreational landings. Amendment 40 also established accountability measures for the Gulf red snapper recreational components. The component allocation was applied to the red snapper recreational annual catch target (ACT), which is set 20 percent below the recreational annual catch limit. Both components' Federal red snapper seasons begin on June 1 and close when the respective component's ACT is projected to be met.

Amendment 40 also applied a 3-year sunset provision for the regulations implemented through its final rule. The sunset provision maintained the measures for sector separation through the end of the 2017 fishing year, on December 31, 2017.

The 3-year sunset provision in Amendment 40 was included to provide an incentive for the Council to continue to evaluate alternative management measures or programs for the recreational sector. Unless modified, after the 2017 fishing year, on January 1, 2018, the management measures implemented through Amendment 40 will expire and the recreational sector will be managed as a single entity. The Council is currently working to develop and approve other amendments to address the management of the charter and headboat fishing within the Federal for-hire component (Amendments 41 and 42 to the FMP, respectively). The development of these amendments is taking longer than the Council anticipated, and if approved by NMFS, would likely not be effective until after the sector separation provisions expire at the end of the 2017 fishing year (December 31, 2017). Therefore, through Amendment 45, the Council determined there was a need to extend the sunset provision to allow for additional time to consider and possibly implement alternative management strategies within the Gulf red snapper recreational sector.

Management Measure Contained in This Proposed Rule

Amendment 45 would extend the 3-year sunset provision for separation of the Federal for-hire and private angling recreational components for Gulf red snapper and associated management measures for an additional 5 years. This proposed rule would extend Gulf recreational red snapper sector separation through the end of the 2022 fishing year, on December 31, 2022, rather than the current sunset date of December 31, 2017. Beginning on January 1, 2023, the red snapper recreational sector would be managed as a single entity without the Federal for-hire and private angling components. The Council would need to take further action for these recreational components and management measures to extend beyond the 5-year extension proposed in Amendment 45.

Additionally, as a result of extending the sunset provision for sector separation, this proposed rule would extend the respective red snapper recreational component quotas and ACTs through the 2022 fishing year, instead of through the 2017 fishing year as implemented through Amendment 40.

As described above, extending the duration of the Gulf red snapper recreational sunset provision would give the Council additional flexibility in developing alternative management approaches for red snapper.

Additional Proposed Changes to Codified Text

On May 1, 2015, NMFS published the final rule for a framework action to revise the Gulf red snapper commercial and recreational quotas and ACTs, including the recreational component ACTs, and to announce the closure dates for the recreational sector components for the 2015 fishing year (80 FR 24832). However, during the implementation of the framework action, the term and regulatory reference for total recreational quota was inadvertently used instead of total recreational ACT when referring to the applicability of the recreational component ACTs after sector separation ends in § 622.41(q)(2)(iii)(B) and (C). This rule corrects this error by revising the text and regulatory references within the component ACTs to reference the total recreational sector ACT instead of the total recreational quota in § 622.41(q)(2)(iii)(B) and (C).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to extend the sunset provision that would end the distinct private angling and Federal for-hire components (sector separation) of the red snapper recreational sector. This would allow more time for the Council to develop and potentially implement Federal for-hire and private angling component management measures to better prevent overfishing while achieving the OY on a continuing basis, particularly with respect to recreational opportunities, and while rebuilding the red snapper stock. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

This proposed rule, if implemented, would directly affect all vessels with a Gulf Federal charter vessel/headboat reef fish permit (hereafter referred to as a for-hire permit). Headboats, which charge a fee per passenger, and charter vessels, which charge a fee on a whole vessel basis, are types of vessel operations that participate in the for-hire fishing component of the recreational sector. In addition to the difference in how fees are paid, headboats are generally larger and carry more passengers than charter vessels. A for-hire permit is required for for-hire vessels to harvest reef fish species, including red snapper, in the Gulf Exclusive Economic Zone (EEZ). On February 17, 2016, there were 1,312 valid (non-expired) or renewable for-hire permits. A renewable permit is an expired permit that may not be actively fished, but is renewable for up to 1 year after expiration. Although the for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a headboat or a charter vessel and vessels may operate in both capacities. However, only federally permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fishery Science Center that the vessel primarily operates as a headboat. Sixty-nine Gulf vessels were registered in the SHRS as of February 2016. As a result, the estimated 1,312 vessels expected to be directly affected by this proposed rule are expected to consist of 1,243 charter vessels and 69 headboats. The average charter vessel is estimated to receive approximately $83,000 (2015 dollars) in annual revenue. The average headboat is estimated to receive approximately $252,000 (2015 dollars) in annual revenue.

NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule. Although this proposed rule would also directly affect recreational anglers, recreational anglers are not small entities under the RFA.

The Small Business Administration has established size criteria for all major industry sectors in the U.S. A business involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $7.5 million (NAICS code 487210, for-hire businesses) for all its affiliated operations worldwide. All for-hire fishing businesses expected to be directly affected by this proposed rule are believed to be small business entities.

This proposed rule consists of one action that would extend the sunset date of the sector separation provisions for the recreational harvest of red snapper in the Gulf, and correct the Gulf red snapper recreational sector AMs. Sector separation is scheduled to sunset at the end of 2017 fishing year. This proposed rule would extend the sunset date for an additional 5 years, through the 2022 fishing year. As a part of sector separation there are sector allocations, which allow each sector to have distinct seasons unaffected (in the short term) by the harvest activity by the other sector, and accountability measures intended to restrain each sector to its allocation and help ensure that the potential benefits expected to accrue to sector separation are realized. Sector separation also established a platform which enables management changes that may result in increased economic benefits to the affected small entities. These effects would be a direct effect of these management changes, as they are implemented, and not of this proposed rule.

The current sector separation sunset date provision limits the cumulative amount and duration of these positive economic effects. The 3-year duration of sector separation as is currently in place is insufficient time to conduct substantive evaluation of each sector's needs, develop and implement appropriate sector-specific management measures, and allow the measures to remain in effect long enough for the benefits to be realized. Additionally, the imminent lapse of the 3-year sunset provision is believed to be a disincentive for business owners to make substantive financial or other operational decisions that may improve the economic viability of their business. Extending the sunset date for an additional 5 years would be expected to result in increased economic benefits to for-hire small business entities because it would lengthen their planning horizon and opportunity to make beneficial operational changes and would increase the management flexibility to implement sector-specific measures designed to increase the economic benefits accruing to both the for-hire and private angling components.

It is not feasible to generate quantitative estimates of the expected economic benefits expected to accrue to these small for-hire business entities as a result of the proposed change in the sunset date because of an inability to forecast the behavioral changes by the for-hire businesses or the anglers who hire their services, and the absence of detail on, or schedule of implementation of, the sector-specific management measures that may be implemented. Nevertheless, the net effect of the proposed change in the sunset date of sector separation is expected to be an increase in profit per affected small entity.

The proposed change to the Gulf red snapper recreational sector AMs would be administrative, not substantive, in nature, correcting text and regulatory reference errors made in prior rulemaking. These errors have not affected how the recreational harvest of red snapper has been managed or the behavior of any small entities engaged in the recreational harvest of red snapper. The proposed corrections are consistent with the intent of the prior rulemaking (80 FR 24832, May 1, 2015) and would not be expected to have any direct effect on any small entities.

Based on the discussion above, NMFS determines that this proposed rule, if implemented, would result in an increase in revenue and associated profits and would not have a significant adverse economic effect on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf, Quotas, Recreational, Red snapper.

Dated: August 31, 2016.

Samuel D. Rauch III,

Deputy Assitant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.39, revise paragraphs (a)(2)(i)(B) and (C) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(2) * * *

(i) * * *

(B) *Federal charter vessel/headboat component quota.* The Federal charter vessel/headboat component quota applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational quota, specified in paragraph (a)(2)(i)(A) of this section, will apply to the recreational sector.

(*1*) For fishing year 2015—2.964 million lb (1.344 million kg), round weight.

(*2*) For fishing year 2016—3.042 million lb (1.380 million kg), round weight.

(*3*) For fishing years 2017 through 2022—2.993 million lb (1.358 million kg), round weight.

(C) *Private angling component quota.* The private angling component quota applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational quota, specified in paragraph (a)(2)(i)(A) of this section, will apply to the recreational sector.

(*1*) For fishing year 2015—4.043 million lb (1.834 million kg), round weight.

(*2*) For fishing year 2016—4.150 million lb (1.882 million kg), round weight.

(*3*) For fishing years 2017 through 2022—4.083 million lb (1.852 million kg), round weight.

* * * * *

■ 3. In § 622.41, revise paragraphs (q)(2)(iii)(B) and (C) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(q) * * *

(2) * * *

(iii) * * *

(B) *Federal charter vessel/headboat component ACT.* The Federal charter vessel/headboat component ACT applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational ACT, specified in paragraph (q)(2)(iii)(A) of this section, will apply to the recreational sector.

(*1*) For fishing year 2015—2.371 million lb (1.075 million kg), round weight.

(*2*) For fishing year 2016—2.434 million lb (1.104 million kg), round weight.

(*3*) For fishing years 2017 through 2022—2.395 million lb (1.086 million kg), round weight.

(C) *Private angling component ACT.* The private angling component ACT applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational ACT, specified in paragraph (q)(2)(iii)(A) of this section, will apply to the recreational sector.

(*1*) For fishing year 2015—3.234 million lb (1.467 million kg), round weight.

(*2*) For fishing year 2016—3.320 million lb (1.506 million kg), round weight.

(*3*) For fishing years 2017 through 2022—3.266 million lb (1.481 million kg), round weight.

[FR Doc. 2016–21620 Filed 9–7–16; 8:45 am]

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Notices

Federal Register
Vol. 81, No. 174
Thursday, September 8, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Third National Survey of WIC Participants (NSWP–III)

AGENCY: Food and Nutrition Service (FNS), United States Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection to conduct the Third National Survey of WIC Participants (NSWP–III).

DATES: Written comments must be received on or before November 7, 2016.

ADDRESSES: Comments are invited on the following topics: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques, and/or other forms of information technology.

Comments may be sent to: Anthony Panzera, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Anthony Panzera at 703–305–2576, or via email to *Anthony.Panzera@fns.usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Anthony Panzera at *Anthony.Panzera@fns.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Third National Survey of WIC Participants (NSWP–III).

Form Number: N/A.

OMB Number: Not yet assigned.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: The Third National Survey of WIC Participants (NSWP–III) is designed to provide nationally representative estimates of improper payments in the WIC program arising from errors in the certification or denial of WIC applicants, to investigate potential State and local agency characteristics that may correlate with these errors, and to assess WIC participants' reasons for satisfaction or dissatisfaction with the program. The NSWP–III builds on three previous studies and reports spanning several decades.

To accomplish study objectives, the following data collections are planned: (1) A Certification Survey with up to 2,000 recently certified WIC participants; (2) a Denied Applicant Survey with up to 240 WIC applicants who did not qualify for the program; (3) a Program Experiences Survey with up to 2,500 current WIC program participants; (4) a Former Participant Case Study with 520 inactive WIC program participants who have stopped redeeming WIC benefits; (5) a State Agency Survey with 90 agencies, including 50 States and the District of Columbia, the 34 Indian Tribal Organizations (ITOs), and 5 U.S. Territories; (6) and a Local WIC Agency Survey with 1,500 local WIC agency directors.

In addition, NSWP–III will pilot a new methodology for the future annual estimates of improper payments in the WIC program. Under this approach, the data collection instruments and recruiting materials, developed for the 2017 Certification Survey and Denied Applicants Survey, will be fielded in 2018 and 2019 by replacing one of 10 "panels" from the 2017 sample with newly selected WIC participants (180 per year) and denied applicants (24 per year); these data will be pooled with the extant 2017 data from the remaining (non-replaced) panels to update the estimates of improper payments in each year. Data collection activities in these 2 years will include recruiting recently certified WIC participants to complete the Certification Survey and denied WIC applicants to complete the Denied Applicant Survey.

Affected Public: This study includes two respondent groups: (1) State, Local, and Tribal Government (State WIC agency directors and local WIC agency directors); and (2) Individuals or Households (current WIC program participants, denied applicants, and former WIC participants).

Estimated Number of Respondents: The total estimated number of respondents is 7,008. This figure includes 4,745 respondents and 2,263 non-respondents. This study will include six data collection activities.

The initial sample for the State Agency Survey will consist of 90 State WIC agency directors. Assuming that 100 percent respond to the web-based survey, the resulting respondent sample will include approximately 90 State WIC agency directors.

Local WIC agency directors will also complete a web-based survey, the Local WIC Agency Survey. The initial sample will include 1,500 local WIC agency directors and, assuming an 80 percent response rate, the final sample will result in 1,200 local WIC agency directors.

The initial sample size for the Certification Survey is 2,000 current WIC program participants. A portion of the current WIC program participants in the sample unit may complete up to two surveys, the Certification Survey and the Program Experiences Survey. A sample of 1,000 current WIC program participants, a subset of the sample of 2,000 WIC program participants, will be recruited to complete both the Certification Survey and the Program Experiences Survey interviews in person during the same visit. Assuming an 80 percent response rate for each survey, a total of 1,600 current WIC program participants will complete Certification Surveys, and 800 will also complete the Program Experiences Survey.

An additional sample for the Program Experiences Survey will be administered the questionnaire by telephone or in person during a follow-up home visit. The initial sample size is 1,500 current WIC program participants, and assuming an 80 percent response rate, the final sample will include 1,200 current program participants (750 by telephone and 450 in person).

The Denied Applicant Survey, administered in person, will include an initial sample of 240 recently denied WIC program applicants. Assuming an 80 percent response rate, the final sample will be 192 recently denied WIC program applicants.

This study includes a Former WIC Participant Case Study with an initial sample of 520 former WIC program participants. As a qualitative case study with people who are no longer participating in the program, the expected response rate is 30 percent. This response rate will result in 156 respondents who will be asked screening questions. Assuming 20 percent are screened out, the final screened sample will be 125 former participants.

The Alternative Methodology Pilot Studies will take place in 2018 and 2019. The initial sample size for each is estimated to be 186 current WIC program participants for the Certification Survey sample and 24 recently denied WIC program applicants for the Denied Applicant Survey sample. Assuming an 80 percent response rate for each sample, the resulting respondent sample will include approximately 150 current WIC program participants and 19 recently denied WIC program applicants for each year.

Estimated Frequency of Responses per Respondent: FNS estimates that the frequency of responses per respondent will average 5.92 responses per respondent (including respondents and non-respondents) across the entire collection. State agency directors, local WIC agency directors, denied applicants, and former WIC participants will provide a one-time response during their respective survey or interview. A portion of the current WIC participants will be invited to complete two surveys, although most will provide responses on only one survey. Each respondent type may be contacted several times by telephone, mail, email, and home visits to encourage participation and, when appropriate, to remind the respondent of the importance of their contribution to this study.

Estimated Total Annual Responses: The total number of responses (including respondents and non-respondents) expected across all respondent categories is 41,504.

Estimated Time per Response: The estimated time will vary depending on the respondent category and will range from 1.2 minutes (0.02 hours) to 66 minutes (1.1 hours). The following table outlines the estimated total annual burden for each type of respondent. Across all study respondents and non-respondents, the average estimated time per response is 0.10 hours.

Estimated Total Annual Burden Hours on Respondents: 3,898.05 hours (see Table 1: Burden Estimate for Respondents and Non-Respondents for estimated total annual burden hours by type of respondent).

Dated: August 31, 2016.

Audrey Rowe,

Administrator, Food and Nutrition Service.

Table 1: Burden Estimate for Respondents and Non-Respondents

Respondent Category	Respondent Type	Instrument	Appendix ID	Total Sample Size	Respondents					Non-Respondents					Grand Total Burden Estimate (Hours)
					Estimated Number of Respondents	Frequency of Response	Total Annual Responses	Average Time Per Response (Hours)	Total Annual Burden Estimate (Hours)	Estimated Number of Non-Respondents	Frequency of Non-Response	Total Annual Non-Responses	Average Time Per Non-Response (Hours)	Total Annual Burden Estimate (Hours)	
State, Local, and Tribal Government															
State, Local, and Tribal Government	State WIC Agency Directors	Census of State Agencies Survey-Web	B1	90	90	1	90	1.10	99.00	0	0	0	0.00	0.0	99.00
		Letter to State Agencies	A2	90	90	1	90	0.02	1.80	0	0	0	0.00	0.0	1.80
		Study Description for State and Local WIC Agencies	A3	90	90	1	90	0.02	1.80	0	0	0	0.00	0.0	1.80
		NSWP-III Extant State Agency Data Overview	A4	23	23	1	23	0.02	0.46	0	0	0	0.00	0.0	0.46
		State Agency Survey Invitation Email	A5a	90	34	1	34	0.05	1.71	56	1	56	0.02	1.1	2.83
		State Agency Survey Invitation Letter with Instrument	A5b	90	56	1	56	0.07	3.91	34	1	34	0.02	0.7	4.59
		State Agency Survey Reminder Email, 1	A5c	56	21	1	21	0.05	1.06	35	1	35	0.02	0.7	1.75
		State Agency Survey Reminder Email, 2		35	13	1	13	0.05	0.66	21	1	21	0.02	0.4	1.09
		State Agency Survey Reminder Email, 3		21	8	1	8	0.05	0.41	13	1	13	0.02	0.3	0.67
		State Agency Survey Reminder Email, 4		13	5	1	5	0.05	0.25	8	1	8	0.02	0.2	0.42
		State Agency Survey Reminder Email, 5		8	3	1	3	0.05	0.16	5	1	5	0.02	0.1	0.26
		State Agency Survey Reminder Email, 6		5	2	1	2	0.05	0.10	3	1	3	0.02	0.1	0.18
		State Agency Survey Reminder Email, 7		3	3	1	3	0.05	0.16	0	0	0	0.02	0.0	0.16
		State Agency Survey Reminder Phone Script, Call 1	A6	56	25	1	25	0.08	2.01	31	1	31	0.02	0.6	2.62
		State Agency Survey Reminder Phone Script, Call 2		31	14	1	14	0.08	1.10	17	0	0	0.00	0.0	1.10
		State Agency Survey Reminder Phone Script, Call 3		17	8	1	8	0.08	0.61	9	0	0	0.00	0.0	0.61
		State Agency Survey Reminder Phone Script, Call 4		9	4	1	4	0.08	0.33	5	1	5	0.02	0.1	0.44
		State Agency Survey Reminder Phone Script, Call 5		5	2	1	2	0.08	0.18	3	0	0	0.00	0.0	0.18
		State Agency Survey Reminder Phone Script, Call 6		3	1	1	1	0.08	0.10	2	0	0	0.00	0.0	0.10
		State Agency Survey Reminder Phone Script, Call 7		2	2	1	2	0.05	0.08	0	0	0	0.02	0.0	0.08
		State Agency Survey Thank You Letter	C1	90	90	1	90	0.02	1.80	0	0	0	0.00	0.0	1.80
	Local WIC Agency Directors	Local WIC Agency Survey - Web	B2	1500	1200	1	1200	0.67	800.00	300	0	0	0.00	0.0	800.00
		Local WIC Agency Survey Invitation Email	A7a	1500	525	1	525	0.05	26.25	975	1	975	0.02	19.5	45.75
		Local WIC Agency Survey Invitation Letter with Instrument	A7b	1500	675	1	675	0.07	47.25	825	1	825	0.02	16.5	63.75
		Local WIC Agency Survey Reminder Email, 1	A7c	975	146	1	146	0.05	7.31	828	1	828	0.02	16.6	23.87
		Local WIC Agency Survey Reminder Email, 2		828	152	1	152	0.05	7.62	676	1	676	0.02	13.5	21.13
		Local WIC Agency Survey Reminder Email, 3		676	124	1	124	0.05	6.22	551	1	551	0.02	11.0	17.24
		Local WIC Agency Survey Reminder Email, 4		551	102	1	102	0.05	5.08	450	1	450	0.02	9.0	14.07
		Local WIC Agency Survey Reminder Email, 5		450	83	1	83	0.05	4.14	367	1	367	0.02	7.3	11.48
		Local WIC Agency Survey Reminder Email, 6		367	68	1	68	0.05	3.38	299	1	299	0.02	6.0	9.38
		Local WIC Agency Survey Reminder Email, 7		299	55	1	55	0.05	2.76	244	1	244	0.02	4.9	7.64
		Local WIC Agency Survey Reminder Phone Script, Call 1	A8	825	152	1	152	0.08	12.14	673	1	673	0.02	13.5	25.61
		Local WIC Agency Survey Reminder Phone Script, Call 2		673	123	1	123	0.08	9.86	550	0	0	0.00	0.0	9.86
		Local WIC Agency Survey Reminder Phone Script, Call 3		550	101	1	101	0.08	8.05	449	0	0	0.00	0.0	8.05
		Local WIC Agency Survey Reminder Phone Script, Call 4		449	82	1	82	0.08	6.58	367	1	367	0.02	7.3	13.92
		Local WIC Agency Survey Reminder Phone Script, Call 5		367	67	1	67	0.08	5.37	300	0	0	0.00	0.0	5.37
		Local WIC Agency Survey Reminder Phone Script, Call 6		300	55	1	55	0.08	4.39	245	0	0	0.00	0.0	4.39
		Local WIC Agency Survey Reminder Phone Script, Call 7		245	45	1	45	0.08	3.59	200	1	200	0.02	4.0	7.59
		Local WIC Agency Survey Thank You Letter	C2	1200	1200	1	1200	0.02	24.00	0	0	0	0	0.0	24.00
[illegible]					1290	4	5539	0.20	1101.67	390	22	6667	0.02	133.35	1235.02
Individuals or Households															
Individuals or Households	Current WIC Program Participants	Certification Survey- In Person	B3a, B3b	2000	1600	1	1600	0.50	800.00	400	0	0	0.00	0.00	800.00
		Certification Survey Invitation Phone Script, Call 1	A10a	2000	362	1	362	0.08	28.94	1638	1	1638	0.02	32.76	61.71
		Certification Survey Invitation Phone Script, Call 2		1638	296	1	296	0.08	23.71	1343	0	0	0.00	0.00	23.71
		Certification Survey Invitation Phone Script, Call 3		1343	243	1	243	0.08	19.43	1100	0	0	0.00	0.00	19.43
		Certification Survey Invitation Phone Script, Call 4		1100	101	1	101	0.08	8.05	999	1	899	0.02	19.98	28.04
		Certification Survey Invitation Phone Script, Call 5		999	91	1	91	0.08	7.32	908	0	0	0.00	0.00	7.32
		Certification Survey Invitation Phone Script, Call 6		908	83	1	83	0.08	6.65	825	0	0	0.00	0.00	6.65
		Certification Survey Invitation Phone Script, Call 7		825	125	1	125	0.08	9.96	700	1	700	0.02	14.01	23.97
		Certification Survey In-Person Invitation Script, Door Knock 1	A10b	700	300	1	300	0.02	6.01	400	0	0	0.00	0.00	6.01
		Text Message Reminder for Scheduled Certification Survey	A10c	1600	880	1	800	0.02	17.60	720	0	0	0.00	0.00	17.60
		Phone Reminder for Scheduled Certification Survey		720	360	1	800	0.08	28.80	360	1	360	0.02	7.20	36.00
		Certification Survey Information Letter from State Agencies	A9	2000	1600	1	1600	0.02	32.00	400	1	400	0.02	8.00	40.00
		Participant Consent Form Phone Script	C3	1600	1600	1	1600	0.10	160.00	0	0	0	0.00	0.00	160.00
		Program Experiences Survey (after Certification Survey)-In Person	B5a, B5b	1000	800	1	800	0.52	416.00	200.00	1	200	0.02	4.00	420.00

Respondent Category	Respondent Type	Instrument	Appendix ID	Total Sample Size	Respondents					Non-Respondents					Grand Total Burden Estimate (Hours)
					Estimated Number of Respondents	Frequency of Response	Total Annual Responses	Average Time Per Response (Hours)	Total Annual Burden Estimate (Hours)	Estimated Number of Non-Respondents	Frequency of Non-Response	Total Annual Non-Responses	Average Time Per Non-Response (Hours)	Total Annual Burden Estimate (Hours)	
Individuals or Households	Current WIC Program Participants	Program Experiences Survey - Telephone	B5a, B5b	1500	750	1	750	0.50	375.00	750	0	0	0.00	0.00	375.00
		Program Experiences Survey Invitation Phone Script Call 1	A13	1500	338	1	338	0.08	27.00	1163	1	1163	0.02	23.25	50.25
		Program Experiences Survey Invitation Phone Script Call 2		1163	174	1	174	0.08	13.95	988	0	0	0.00	0.00	13.95
		Program Experiences Survey Invitation Phone Script Call 3		988	111	1	111	0.08	8.85	877	0	0	0.00	0.00	8.85
		Program Experiences Survey Invitation Phone Script Call 4		877	44	1	44	0.08	3.51	834	1	834	0.02	16.67	20.18
		Program Experiences Survey Invitation Phone Script Call 5		834	35	1	35	0.08	2.79	799	0	0	0.00	0.00	2.79
		Program Experiences Survey Invitation Phone Script Call 6		799	25	1	25	0.08	2.00	774	0	0	0.00	0.00	2.00
		Program Experiences Survey Invitation Phone Script Call 7		774	14	1	14	0.08	1.11	760	1	760	0.02	15.19	16.31
		Program Experiences Survey Invitation Phone Script Call 8		760	10	1	10	0.08	0.80	750	0	0	0.00	0.00	0.80
		Program Experiences Survey Invitation Letter	A15a	0	0	1	0	0.03	0.00	0	1	0	0.02	0.00	0.00
		Program Experiences Survey Invitation Email	A15b	975	10	1	10	0.03	0.29	965	1	965	0.02	19.31	19.60
		Participant Consent Form Phone Script	C4	750	750	1	750	0.10	75.00	0	0	0	0.00	0.00	75.00
		Program Experiences Survey Thank You Letter and Gift Card	C5	750	750	1	750	0.02	15.00	0	0	0	0.00	0.00	15.00
		Program Experiences Survey- In Person	B5a, B5b	750	450	1	450	0.50	225.00	300	0	0	0.00	0.00	225.00
		Program Experiences Survey Invitation In-Person Script Door Knock 1	A14	750	450	1	450	0.08	36.00	300	0	0	0.00	0.00	36.00
		Program Experiences Survey Postcard	A15b	750	34	1	34	0.02	0.68	716	1	716	0.02	14.33	15.00
		Participant Brochure	A16	750	450	1	450	0.02	9.00	300	0	0	0.00	0.00	9.00
		Participant Consent Form	C6	450	450	1	450	0.10	45.00	0	0	0	0.00	0	45.00
	Recently Denied WIC Program Applicants	Denied Applicant Survey- In Person	B4a, B4b	240	192	1	192	0.58	112.00	48	0	0	0.00	0.00	112.00
		Denied Applicant Survey Invitation Phone Script, Call 1	A12a	240	28	1	28	0.08	2.26	212	1	212	0.02	4.24	6.49
		Denied Applicant Survey Invitation Phone Script, Call 2		212	25	1	25	0.08	1.99	187	0	0	0.00	0.00	1.99
		Denied Applicant Survey Invitation Phone Script, Call 3		187	22	1	22	0.08	1.76	165	0	0	0.00	0.00	1.76
		Denied Applicant Survey Invitation Phone Script, Call 4		165	7	1	7	0.08	0.59	157	1	157	0.02	3.15	3.74
		Denied Applicant Survey Invitation Phone Script, Call 5		157	6	1	6	0.08	0.50	151	0	0	0.00	0.00	0.50
		Denied Applicant Survey Invitation Phone Script, Call 6		151	6	1	6	0.08	0.48	145	0	0	0.00	0.00	0.48
		Denied Applicant Survey Invitation Phone Script, Call 7		145	5	1	5	0.08	0.43	140	1	140	0.02	2.80	3.22
		Denied Applicant Survey In-Person Invitation, Door Knock 1	A12b	140	82	1	82	0.08	6.54	58	0	0	0.00	0.00	6.54
		Denied Applicant Survey In-Person Invitation, Door Knock 2		58	11	1	11	0.08	0.88	47	0	0	0.00	0.00	0.88
		Text Message Reminder for Scheduled Denied Applicant Survey	A12c	192	106	1	106	0.02	2.11	86	1	86	0.00	0.00	2.11
		Phone Reminder for Scheduled Denied Applicant Survey		86	43	1	43	0.08	3.46	43	1	43	0.02	0.86	4.32
		Denied Applicant Survey Information Letter from State Agencies	A11	240	192	1	192	0.02	3.84	48	1	48	0.02	0.96	4.80
		Participant Consent Form	C7	192	192	1	192	0.10	19.20	0	0	0	0.00	0.00	19.20
	Former WIC Program Participants	Former WIC Participant Interview Guide-telephone	B8	520	125	1	125	0.67	83.33	395	0	0	0.00	0.00	83.33
		Former WIC Participant Survey Invitation Phone Script, Call 1	A17	520	65	1	65	0.08	5.20	455	1	455	0.02	9.10	14.30
		Former WIC Participant Survey Invitation Phone Script, Call 2		455	34	1	34	0.08	2.73	421	1	421	0.02	8.42	11.15
		Former WIC Participant Survey Invitation Phone Script, Call 3		421	16	1	16	0.08	1.28	405	1	405	0.02	8.10	9.38
		Former WIC Participant Survey Invitation Phone Script, Call 4		405	6	1	6	0.08	0.49	399	1	399	0.02	7.98	8.46
		Former WIC Participant Survey Invitation Phone Script, Call 5		399	4	1	4	0.08	0.32	395	1	395	0.02	7.90	8.22
		Participant Consent Form Phone Script	C8	125	125	1	125	0.10	12.50	0	0	0	0.00	0.00	12.50
		Former WIC Participant Survey Thank You Letter and Gift Card	C9	125	125	1	125	0.02	2.50	0	0	0	0.00	0.00	2.50

Respondent Category	Respondent Type	Instrument	Appendix ID	Total Sample Size	Respondents					Non-Respondents					Grand Total Burden Estimate (Hours)
					Estimated Number of Respondents	Frequency of Response	Total Annual Responses	Average Time Per Response (Hours)	Total Annual Burden Estimate (Hours)	Estimated Number of Non-Respondents	Frequency of Non-Response	Total Annual Non-Responses	Average Time Per Non-Response (Hours)	Total Annual Burden Estimate (Hours)	
Individuals or Households	Alternative Methodology Pilot Study 2018	Certification Survey - In Person	B3a, B3b	180	150	1	150	0.50	75.00	30	0	0	0.00	0.00	75.00
		Certification Survey Invitation Phone Script, Call 1	A10a	180	36	1	36	0.08	2.88	144	1	144	0.02	2.88	5.76
		Certification Survey Invitation Phone Script, Call 2		144	29	1	29	0.08	2.30	115	0	0	0.00	0.00	2.30
		Certification Survey Invitation Phone Script, Call 3		115	23	1	23	0.08	1.84	92	0	0	0.00	0.00	1.84
		Certification Survey Invitation Phone Script, Call 4		92	18	1	18	0.08	1.47	74	1	74	0.02	1.47	2.94
		Certification Survey Invitation Phone Script, Call 5		74	9	1	9	0.08	0.71	65	0	0	0.00	0.00	0.71
		Certification Survey Invitation Phone Script, Call 6		65	6	1	6	0.08	0.52	58	0	0	0.00	0.00	0.52
		Certification Survey Invitation Phone Script, Call 7		58	6	1	6	0.08	0.47	52	1	52	0.02	1.05	1.52
		Certification Survey In-Person Invitation Script; Door Knock 1	A10b	52	23	1	23	0.02	0.45	30	0	0	0.00	0.00	0.45
		Text Message Reminder for Scheduled Certification Survey	A10c	180	99	1	800	0.02	1.98	81	0	0	0.00	0.00	1.98
		Phone Reminder for Scheduled Certification Survey		180	90	1	800	0.08	7.20	90	1	90	0.02	1.80	9.00
		Certification Survey Information Letter from State Agencies	A9	180	150	1	150	0.02	3.00	30	1	30	0.02	0.60	3.60
		Participant Consent Form Phone Script	C3	150	150	1	150	0.10	15.00	0	0	0	0.00	0.00	15.00
		Denied Applicant Survey - In Person	B4a, B4b	24	19	1	19	0.58	11.08	5	0	0	0.00	0.00	11.08
		Denied Applicant Survey Invitation Phone Script, Call 1	A12a	24	3	1	3	0.08	0.23	21	1	21	0.02	0.42	0.65
		Denied Applicant Survey Invitation Phone Script, Call 2		21	2	1	2	0.08	0.20	19	0	0	0.00	0.00	0.20
		Denied Applicant Survey Invitation Phone Script, Call 3		19	2	1	2	0.08	0.18	16	0	0	0.00	0.00	0.18
		Denied Applicant Survey Invitation Phone Script, Call 4		16	1	1	1	0.08	0.06	16	1	16	0.02	0.31	0.37
		Denied Applicant Survey Invitation Phone Script, Call 5		16	1	1	1	0.08	0.05	15	0	0	0.00	0.00	0.05
		Denied Applicant Survey Invitation Phone Script, Call 6		15	1	1	1	0.08	0.05	15	0	0	0.00	0.00	0.05
		Denied Applicant Survey Invitation Phone Script, Call 7		15	1	1	1	0.08	0.04	14	1	14	0.02	0.28	0.32
		Denied Applicant Survey In-Person Invitation, Door Knock 1	A12b	14	8	1	8	0.08	0.65	6	0	0	0.00	0.00	0.65
		Denied Applicant Survey In-Person Invitation, Door Knock 2		6	1	1	1	0.08	0.09	5	0	0	0.00	0.00	0.09
		Text Message Reminder for Scheduled Denied Applicant Survey	A12c	24	13	1	13	0.02	0.26	11	1	11	0.00	0.00	0.26
		Phone Reminder for Scheduled Denied Applicant Survey		11	5	1	5	0.08	0.43	5	1	5	0.02	0.11	0.54
		Denied Applicant Survey Information Letter from State Agencies	A11	24	19	1	19	0.02	0.38	5	1	5	0.02	0.10	0.48
		Participant Consent Form	C7	19	19	1	19	0.10	1.90	0	0	0	0.00	0.00	1.90
	Alternative Methodology Pilot Study 2019	Certification Survey - In Person	B3a, B3b	180	150	1	150	0.50	75.00	30	0	0	0.00	0.00	75.00
		Certification Survey Invitation Phone Script, Call 1	A10a	180	36	1	36	0.08	2.88	144	1	144	0.02	2.88	5.76
		Certification Survey Invitation Phone Script, Call 2		144	29	1	29	0.08	2.30	115	0	0	0.00	0.00	2.30
		Certification Survey Invitation Phone Script, Call 3		115	23	1	23	0.08	1.84	92	0	0	0.00	0.00	1.84
		Certification Survey Invitation Phone Script, Call 4		92	18	1	18	0.08	1.47	74	1	74	0.02	1.47	2.94
		Certification Survey Invitation Phone Script, Call 5		74	9	1	9	0.08	0.71	65	0	0	0.00	0.00	0.71
		Certification Survey Invitation Phone Script, Call 6		65	6	1	6	0.08	0.52	58	0	0	0.00	0.00	0.52
		Certification Survey Invitation Phone Script, Call 7		58	6	1	6	0.08	0.47	52	1	52	0.02	1.05	1.52
		Certification Survey In-Person Invitation Script; Door Knock 1	A10b	52	23	1	23	0.02	0.45	30	0	0	0.00	0.00	0.45
		Text Message Reminder for Scheduled Certification Survey	A10c	180	99	1	800	0.02	1.98	81	0	0	0.00	0.00	1.98
		Phone Reminder for Scheduled Certification Survey		180	90	1	800	0.08	7.20	90	1	90	0.02	1.80	9.00
		Certification Survey Information Letter from State Agencies	A9	180	150	1	150	0.02	3.00	30	1	30	0.02	0.60	3.60
		Participant Consent Form Phone Script	C3	150	150	1	150	0.10	15.00	0	0	0	0.00	0.00	15.00
		Denied Applicant Survey - In Person	B4a, B4b	24	19	1	19	0.58	11.08	5	0	0	0.00	0.00	11.08
		Denied Applicant Survey Invitation Phone Script, Call 1	A12a	24	3	1	3	0.08	0.23	21	1	21	0.02	0.42	0.65
		Denied Applicant Survey Invitation Phone Script, Call 2		21	2	1	2	0.08	0.20	19	0	0	0.00	0.00	0.20
		Denied Applicant Survey Invitation Phone Script, Call 3		19	2	1	2	0.08	0.18	16	0	0	0.00	0.00	0.18
		Denied Applicant Survey Invitation Phone Script, Call 4		16	1	1	1	0.08	0.06	16	1	16	0.02	0.31	0.37
		Denied Applicant Survey Invitation Phone Script, Call 5		16	1	1	1	0.08	0.05	15	0	0	0.00	0.00	0.05
		Denied Applicant Survey Invitation Phone Script, Call 6		15	1	1	1	0.08	0.05	15	0	0	0.00	0.00	0.05
		Denied Applicant Survey Invitation Phone Script, Call 7		15	1	1	1	0.08	0.04	14	1	14	0.02	0.28	0.32
		Denied Applicant Survey In-Person Invitation, Door Knock 1	A12b	14	8	1	8	0.08	0.65	6	0	0	0.00	0.00	0.65
		Denied Applicant Survey In-Person Invitation, Door Knock 2		6	1	1	1	0.08	0.09	5	0	0	0.00	0.00	0.09
		Text Message Reminder for Scheduled Denied Applicant Survey	A12c	24	13	1	13	0.02	0.26	11	1	11	0.00	0.00	0.26
		Phone Reminder for Scheduled Denied Applicant Survey		11	5	1	5	0.08	0.43	5	1	5	0.02	0.11	0.54
		Denied Applicant Survey Information Letter from State Agencies	A11	24	19	1	19	0.02	0.38	5	1	5	0.02	0.10	0.48
		Participant Consent Form	C7	19	19	1	19	0.10	1.90	0	0	0	0.00	0.00	1.90
[illegible]					3485	5	17339	0.16	2796.37	1963	6	11958	0.02	237.22	3033.58
				Grand Total	4745	5	22878	0.17	3994.05	2285	6	18824	0.02	370.57	4364.61

[FR Doc. 2016–21576 Filed 9–7–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Prince William Sound Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Prince William Sound Resource Advisory Committee (RAC) will meet in Cordova, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held on September 24, 2016, at 9:00 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Cordova Ranger District office, 612 2nd Street, 3rd floor conference room (courtroom), Cordova, Alaska. The meeting will also be available via teleconference. For anyone who would like to attend via teleconference, please visit the Web site listed in the **SUMMARY** section or contact the person listed under the **FOR FURTHER INFORMATION CONTACT** section.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Cordova Ranger District. Please call ahead at 907–424–4722 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nancy O'Brien, RAC Coordinator, by phone at 907–424–4722, or by email at *nobrien@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss and vote on project proposals.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 12, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Nancy O'Brien, RAC Coordinator, P.O. Box 280, Cordova, Alaska 99574; by email to *nobrien@fs.fed.us,* or via facsimile to 907–424–7214.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: August 31, 2016.

Tim Charnon,

District Ranger.

[FR Doc. 2016–21604 Filed 9–7–16; 8:45 am]

BILLING CODE 3411–15–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Friday, September 9, 2016, 11 a.m. EDT.

PLACE: Broadcasting Board of Governors, Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Closed Meeting of the Broadcasting Board of Governors.

SUMMARY: The members of the Broadcasting Board of Governors (BBG) will meet in a special session, to be conducted telephonically, to discuss and approve a budget submission for Fiscal Year 2018. According to Office of Management and Budget (OMB) Circular A–11, Section 22.1, all agency budgetary materials and data are considered confidential prior to the President submitting a budget to Congress. In accordance with section 22.5 of Circular A–11, the BBG has determined that its meeting should be closed to public observation pursuant to 5 U.S.C. 552b(c)(9)(B). In accordance with the Government in the Sunshine Act and BBG policies, the meeting will be recorded and a transcript of the proceedings, subject to the redaction of information protected by 5 U.S.C. 552b(c)(9)(B), will be made available to the public. The publicly-releasable transcript will be available for download at *www.bbg.gov* within 21 days of the date of the meeting.

Information regarding member votes to close the meeting and expected attendees can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Oanh Tran at (202) 203–4545.

Oanh Tran,

Director of Board Operations.

[FR Doc. 2016–21712 Filed 9–6–16; 11:15 am]

BILLING CODE 8610–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee for Orientation and Project Planning

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Tennessee Advisory Committee will hold a meeting on Wednesday, September 28, 2016, at 12:00 p.m. EST for the purpose of welcoming the new committee and discussing potential projects.

DATES: The meeting will be held on Wednesday, September 28, 2016 12:00 p.m. EST. Public Call-In Information: The meeting will be by teleconference. Toll-free call-in number: 888–297–0358, conference ID: 6138915.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton at *jhinton@usccr.gov* or by phone at 404–562–7006.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–297–0358, conference ID: 6138915. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to make statements during the open comment period of the meeting. In addition, members of the public may submit written comments; the comments must be received in the regional office by September 23, 2016. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov*. Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov*, or may contact the Southern Regional Office at the above email or street address.

Agenda

Welcome and Call to Order
  Diane Di Ianni, Chairman Tennessee SAC
  Jeff Hinton, Regional Director
Regional Update—Jeff Hinton
  Member Introduction/Open Comment—Diane Di Ianni, Chair Tennessee SAC
  Staff/Advisory Committee
Public Participation
Adjournment

Dated: August 29, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–21510 Filed 9–7–16; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Collection of State Administrative Records Data.

OMB Control Number: 0607–xxxx.

Form Number(s): Information will be collected in the form of a data transfer to the Census Bureau. No form will be used.

Type of Request: Regular/General.

Number of Respondents: 50 states, plus the District of Columbia.

Average Hours per Response: 75 hours.

Burden Hours: 3,825 hours.

Needs and Uses: The State administrative records will be integrated and linked with Census Bureau data from surveys and censuses and used to augment or replace Census operations, improve the Census Bureau's Title 13, U.S. Code (U.S.C.) authorized censuses and surveys and methods of collecting program participation data, as well as improving record linking methods.

The Census Bureau will return tabulated data to state data sharing partners. Data sharing and analysis of linked files are solely for statistical purposes, not for program enforcement. All State administrative records data are and will remain confidential, whether in their original form or when comingled or linked.

Affected Public: State governments.

Frequency: Initial data extract delivery followed by an annual data extract delivery through the duration of the terms of the agreement.

Respondent's Obligation: None. The data is being requested.

Legal Authority: The authority for the Census Bureau to enter into these agreements is 13 U.S.C. 6, which permits the Census Bureau to access, by purchase or otherwise, information to assist the Census Bureau in the performance of duties under Title 13, United States Code. Other specific citations may apply per the data sharing partner.

This information collection request may be viewed at *www.reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–21612 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–57–2016]

Foreign-Trade Zone (FTZ) 92—Harrison County, Mississippi; Notification of Proposed Production Activity; TopShip, LLC (Shipbuilding); Gulfport, Mississippi

The Mississippi Coast Foreign-Trade Zone, Inc., grantee of FTZ 92, submitted a notification of proposed production activity to the FTZ Board on behalf of TopShip, LLC (TopShip), located in Gulfport, Mississippi. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 30, 2016.

The request indicates that a separate application for subzone designation at the TopShip facility will be submitted. A subzone application would be processed under Section 400.31 of the Board's regulations. The TopShip facility is used for the manufacturing of ocean-going vessels. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt TopShip from customs duty payments on the foreign-status components used in export production. On its domestic sales, TopShip would be able to choose the duty rates during customs entry procedures that apply to: Vessels for the transport of persons and goods; and, hulls (duty-free) for the foreign-status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Floor bonding and coating; plastic tubes and joints for generator sets; plastic flooring; plastic generator set spare parts; rubber hoses with fittings; sealing rings; curtains; oil booms; rock wool; glass partitions; steel flanges; marine doors; small steel drums; steel metadisc fasteners; steel washers; steel fasteners;

manholes; ladders; raceways; aluminum profiles; aluminum wall and ceiling panels; copper nickel flanges; bobbins; handrails; hollow aluminum profiles; aluminum profiles for door and window frames; tin battery boxes and parts; marine door parts; door mounts; aluminum cofferdams; aluminum electrodes; diesel engines; diesel engine parts; propulsion parts; ride control system parts; ride control systems; cables; marine engine spare parts; propulsion equipment; marine engine seals; main foil assemblies; vulkan shafts; manifold for engines; ride controllers; fuel pumps; heaters; fire dampers; ventilation equipment; intake filters; water separators; food waste handling system pumps; winches; straddle carriers; davits; ships spare bushings; computerized monitoring systems; solid waste processors; controls; thrusters; pressure valves; composite parts; bearings; shafts; gears; couplings; mechanical seals for water jets; propeller blades; anti-vibration mounts; AC multi-phase electric motors; electric motors not exceeding 373kW; electrical generators with output exceeding 750 kVA; davit parts; transformers; converter cabinet units; horns; bells; gongs; windshield wiper parts; computer parts; electrical equipment; central control units; power supplies; control systems containers; breakers; electrical terminals; bridge firefighting control panels; distribution panels; 20A, 20V power supplies; switchboards; electrical components; electrical cables; vibration control equipment; marine evacuation equipment; marine evacuation system life rafts and components; helm chairs; table brackets and plates; seats and accessories; furniture; seat parts; searchlights; and, bathroom modules (duty rate ranges from duty-free to 11.3%). The request indicates that curtains classified under HTSUS Subheading 6303.12 will be admitted to the zone in privileged foreign status (19 CFR 146.41) or domestic status (19 CFR 146.43), thereby precluding inverted tariff benefits on such items. The production activity under FTZ procedures would be subject to the "standard shipyard restriction" applicable to foreign origin steel mill products, which requires that TopShip pay all applicable duties on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 18, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: September 1, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–21651 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[160826784–6784–01]

RIN 0694–XC033

Effectiveness of Licensing Procedures for Agricultural Commodities to Cuba

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is requesting public comments on the effectiveness of its licensing procedures as defined in the Export Administration Regulations for the export of agricultural commodities to Cuba. BIS will include a description of these comments in its biennial report to the Congress, as required by the Trade Sanctions Reform and Export Enhancement Act of 2000, as amended (TSRA).

DATES: Comments must be received by October 11, 2016.

ADDRESSES: Written comments may be sent by email to *publiccomments@bis.doc.gov* with a reference to "TSRA 2016 Report" in the subject line. Written comments may be submitted by mail to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, Washington, DC 20230 with a reference to "TSRA 2016 Report."

FOR FURTHER INFORMATION CONTACT: Tracy L. Patts, Office of Nonproliferation and Treaty Compliance, Telephone: (202) 482–4252. Additional information on BIS procedures and previous biennial reports under TSRA is available at *http://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/13-policy-guidance/country-guidance/426-reports-to-congress.* Copies of these materials may also be requested by contacting the Office of Nonproliferation and Treaty Compliance.

SUPPLEMENTARY INFORMATION: Pursuant to section 906(a) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (22 U.S.C. 7205(a)), the Bureau of Industry and Security (BIS) authorizes exports of agricultural commodities, as defined in part 772 of the Export Administration Regulations (EAR), to Cuba. Requirements and procedures associated with such authorization are set forth in section 740.18 of the EAR (15 CFR 740.18). These are the only licensing procedures in the EAR currently in effect pursuant to the requirements of section 906(a) of TSRA.

Under the provisions of section 906(c) of TSRA (22 U.S.C.7205(c)), BIS must submit a biennial report to the Congress on the operation of the licensing system implemented pursuant to section 906(a) for the preceding two-year period. This report must include the number and types of licenses applied for, the number and types of licenses approved, the average amount of time elapsed from the date of filing of a license application until the date of its approval, the extent to which the licensing procedures were effectively implemented, and a description of comments received from interested parties during a 30-day public comment period about the effectiveness of the licensing procedures. BIS is currently preparing a biennial report on the operation of the licensing system for the two-year period from October 1, 2014 through September 30, 2016.

Request for Comments

By this notice, BIS requests public comments on the effectiveness of the licensing procedures for the export of agricultural commodities to Cuba set forth under section 740.18 of the EAR. Parties submitting comments are asked to be as specific as possible. All comments received by the close of the comment period will be considered by BIS in developing the report to Congress.

All comments must be in writing and will be available for public inspection and copying. Any information that the commenter does not wish to be made available to the public should not be submitted to BIS.

Dated: September 2, 2016.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2016–21607 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 160825782–6782–01]

Effects of Extending Foreign Policy-Based Export Controls Through 2017

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is seeking public comments on the effect of existing foreign policy-based export controls in the Export Administration Regulations. Section 6 of the Export Administration Act requires BIS to consult with industry on the effect of such controls and to report the results of the consultations to Congress. BIS is conducting the consultations through this request for public comments. Comments from all interested persons are welcome. All comments will be made available for public inspection and copying and included in a report to be submitted to Congress.

DATES: Comments must be received by October 11, 2016.

ADDRESSES: Comments on this rule may be submitted through the Federal e-Rulemaking portal (*www.regulations.gov*). The *regulations.gov* ID for this rule is: BIS–2016–0028. Comments may also be sent by email to *publiccomments@bis.doc.gov* or on paper to Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue NW., Room 2099B, Washington, DC 20230. Include the phrase "FPBEC Comment" in the subject line of the email message or on the envelope if submitting comments on paper. All comments must be in writing (either submitted to *regulations.gov,* by email or on paper). All comments, including Personally Identifiable Information (*e.g.,* name, address) voluntarily submitted by the commenter will be a matter of public record and will be available for public inspection and copying. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Mark Salinas, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, telephone 202–482–2164. Copies of the current Annual Foreign Policy Report to the Congress are available at *http://www.bis.doc.gov/index.php/about-bis/newsroom/archives/27-about-bis/502-foreign-policy-reports,* and copies may also be requested by calling the Office of Nonproliferation and Treaty Compliance at the number listed above.

SUPPLEMENTARY INFORMATION: Foreign policy-based controls in the Export Administration Regulations (EAR) are implemented pursuant to section 6 of the Export Administration Act of 1979, as amended, (50 U.S.C. 4601–4623 (Supp. III 2015)) (EAA). The current foreign policy-based export controls maintained by the Bureau of Industry and Security (BIS) are set forth in the EAR (15 CFR parts 730–774), including in parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Other Special Controls). These controls apply to a range of countries, items, activities and persons, including:

- Entities acting contrary to the national security or foreign policy interests of the United States (§ 744.11);
- Certain general purpose microprocessors for "military end-uses" and "military end-users" (§ 744.17);
- Significant items (SI): Hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14);
- Encryption items (§ 742.15);
- Crime control and detection items (§ 742.7);
- Specially designed implements of torture (§ 742.11);
- Certain firearms and related items based on the Organization of American States Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition included within the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (§ 742.17) "Exports of firearms to OAS member countries";
- Regional stability (§ 742.6);
- Equipment and related technical data used in the design, development, production, or use of certain rocket systems and unmanned air vehicles (§§ 742.5 and 744.3);
- Chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§§ 742.2 and 744.4) and various chemicals included on the list of those chemicals controlled pursuant to the Chemical Weapons Convention (§ 742.18);
- Communication intercepting devices, software and technology (§ 742.13);
- Maritime nuclear propulsion (§ 744.5);
- Certain foreign aircraft and vessels (§ 744.7);
- Restrictions on exports and reexports to certain persons designated as proliferators of weapons of mass destruction (§ 744.8);
- Certain cameras to be used by military end-users or incorporated into a military commodity (§ 744.9);
- Countries designated as Supporters of Acts of International Terrorism (§§ 742.8, 742.9, 742.10, 742.19, 746.4, 746.7, and 746.9);
- Industry sectors and regions related to U.S. policy towards Russia (§§ 746.5, 746.6);
- Certain entities in Russia (§ 744.10);
- Individual terrorists and terrorist organizations (§§ 744.12, 744.13 and 744.14);
- Certain persons designated by Executive Order 13315 ("Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members") (§ 744.18);
- Certain sanctioned entities (§ 744.20);
- Embargoed countries (Part 746); and
- U.S. and U.N. arms embargoes (§ 746.1 and Country Group D:5 of Supplement No. 1 to Part 740).

In addition, the EAR impose foreign policy-based export controls on certain nuclear related commodities, technology, end-uses and end-users (§§ 742.3 and 744.2), in part, implementing section 309(c) of the Nuclear Non-Proliferation Act (42 U.S.C. 2139a).

Under the provisions of section 6 of the EAA, export controls maintained for foreign policy purposes require annual extension. Section 6 of the EAA requires a report to Congress when foreign policy-based export controls are extended. The EAA expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52587 (Aug. 8, 2016)), continues the EAR and, to the extent permitted by law, the provisions of the EAA, in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)). The Department of Commerce, as appropriate, follows the provisions of section 6 of the EAA by reviewing its foreign policy-based export controls, conducting consultations with industry on such controls through public comments and preparing a report to be submitted to Congress. In January 2015, the Secretary of Commerce, on the recommendation of the Secretary of

State, extended for one year all foreign policy-based export controls then in effect. BIS is now soliciting public comment on the effects of extending the existing foreign policy-based export controls from January 2017 to January 2018. Among the criteria considered in determining whether to extend U.S. foreign policy-based export controls are the following:

1. The likelihood that such controls will achieve their intended foreign policy purposes, in light of other factors, including the availability from other countries of the goods, software or technology proposed for such controls;
2. Whether the foreign policy objective of such controls can be achieved through negotiations or other alternative means;
3. The compatibility of the controls with the foreign policy objectives of the United States and with overall U.S. policy toward the country subject to the controls;
4. Whether the reaction of other countries to the extension of such controls is not likely to render the controls ineffective in achieving the intended foreign policy objective or be counterproductive to U.S. foreign policy interests;
5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and
6. The ability of the United States to effectively enforce the controls.

BIS is particularly interested in receiving comments on the economic impact of proliferation controls. BIS is also interested in industry information relating to the following:

1. Information on the effect of foreign policy-based export controls on sales of U.S. products to third countries (*i.e.,* those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy-based export controls.
2. Information on controls maintained by U.S. trade partners. For example, to what extent do U.S. trade partners have similar controls on goods and technology on a worldwide basis or to specific destinations?
3. Information on licensing policies or practices by our foreign trade partners that are similar to U.S. foreign policy based export controls, including license review criteria, use of conditions, and requirements for pre- and post-shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).
4. Suggestions for bringing foreign policy-based export controls more into line with multilateral practice.
5. Comments or suggestions to make multilateral controls more effective.
6. Information that illustrates the effect of foreign policy-based export controls on trade or acquisitions by intended targets of the controls.
7. Data or other information on the effect of foreign policy-based export controls on overall trade at the level of individual industrial sectors.
8. Suggestions for measuring the effect of foreign policy-based export controls on trade.
9. Information on the use of foreign policy-based export controls on targeted countries, entities, or individuals. BIS is also interested in comments relating generally to the extension or revision of existing foreign policy-based export controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BIS in reviewing the controls and in developing the report to Congress. All comments received in response to this notice will be displayed on BIS's Freedom of Information Act (FOIA) Web site at *http://efoia.bis.doc.gov/* and on the Federal e-Rulemaking portal at *www.Regulations.gov.* All comments will also be included in a report to Congress, as required by section 6 of the EAA, which directs that BIS report to Congress the results of its consultations with industry on the effects of foreign policy-based controls.

Dated: September 1, 2016.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2016–21542 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 9, 2016, the Department of Commerce (the Department) published the preliminary results of the 2014–2015 administrative review of the antidumping duty order on certain preserved mushrooms from India. The review covers one manufacturer/exporter of the subject merchandise: Himalya International, Ltd. (Himalya). Based on our analysis of the comments received, as well as our findings at verification, we recalculated the weighted-average dumping margin for Himalya. The final weighted-average dumping margin for Himalya is listed below in the "Final Results of Review" section of this notice.

DATES: Effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4929 or (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2016, the Department published the *Preliminary Results.*[1] On June 15, 2016, the Department postponed the final results by 60 days.[2] We invited parties to comment on the preliminary results of the review and we received a case brief from Himalya on June 21, 2016.[3] The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this order is certain preserved mushrooms from India. The product is currently classified under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 0711.51.0000, 0711.90.4000, 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043 and 2003.10.0047 of the Harmonized Tariff System of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of merchandise subject to the scope is dispositive.[4]

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[1] *See Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 12463 (March 9, 2016) (*Preliminary Results*), and accompanying Decision Memorandum entitled "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from India; 2014–2015" (Preliminary Decision Memorandum).

[2] *See* the June 15, 2016, memorandum entitled "Certain Preserved Mushrooms from India: Extension of Deadline for Final Results of Antidumping Duty Administrative Review."

[3] The petitioner, Monterey Mushrooms Inc., did not file a case or rebuttal brief.

Period of Review

The period of review (POR) is February 1, 2014, through January 31, 2015.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's AD and Countervailing Duty (CVD) Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, from April 4 through 8, 2016, we verified the sales and cost information submitted by Himalya for use in our final results. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Himalya.[5]

Final Results of the Review

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Himalya. For a discussion of these changes, *see* the "Margin Calculations" section of the Issues and Decision Memorandum.

As a result of this review, the Department determines that a weighted-average dumping margin of 6.61 percent exists for Himalya for the period February 1, 2014, through January 31, 2015.

Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the date of publication of this notice, pursuant to 19 CFR 351.224(b).

Assessment Rates

The Department determines, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[6] We calculated importer-or customer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if the importer-specific assessment rate is above *de minimis.*

We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.30 percent, the all-others rate made effective by the LTFV investigation.[7] These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: August 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Margin Calculations
V. Discussion of the Issues
  1. Allocation of Costs on a Fresh Mushroom Equivalent Basis
  2. Adjustment to Ocean Freight Expense
  3. Exclusion of U.S. Sales of Non-Prime Merchandise From Margin Calculations
VI. Recommendation

[FR Doc. 2016–21634 Filed 9–7–16; 8:45 am]

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[4] A full description of the scope of the order is contained in the memorandum entitled "Issues and Decision Memorandum for the Final Results of the 2014–2015 Antidumping Duty Administrative Review of Certain Preserved Mushrooms from India" (Issues and Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

[5] *See* Memorandum to the File entitled "Verification of the Sales and Cost Responses of Himalya International Limited in the Antidumping Duty Administrative Review of Certain Preserved Mushrooms from India," dated June 9, 2016.

[6] *See* 19 CFR 351.212(b)(1).

[7] *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From India,* 64 FR 8311 (February 19, 1999).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture, From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–0989.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2005, the Department of Commerce (Department) published in the **Federal Register** the antidumping duty order on wooden bedroom furniture from the People's Republic of China (PRC).[1] On January 4, 2016, the Department published a notice of opportunity to request an administrative review of the Order.[2] The Department received multiple timely requests for an administrative review of the Order. On March 3, 2016, in accordance with section 751(a) of Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a notice of the initiation of an administrative review of the Order.[3] The administrative review was initiated with respect to 141 companies or groups of companies, and covers the period from January 1, 2015, through December 31, 2015. The requesting parties have subsequently timely withdrawn all review requests for 123 of the 141 companies or groups of companies for which the Department initiated a review, as discussed below.

Rescission of Review, in Part

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. All requesting parties withdrew their respective requests for an administrative review of the companies or groups of companies listed in the Appendix to this notice within 90 days of the date of publication of the *Initiation Notice.* Accordingly, the Department is rescinding this review, in part, with respect to these companies, in accordance with our practice[4] and 19 CFR 351.213(d)(1).[5] The administrative review will continue with respect to all other firms for which a review was requested and initiated.

Assessment

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as the only reminder to importers whose entries will be liquidated as a result of this rescission notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that the reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: August 31, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

- Ace Furniture & Crafts Ltd.
- Always Loyal International
- Art Heritage International, Ltd.
- Artwork Metal & Plastic Co., Ltd.
- Baigou Crafts Factory of Fengkai.
- Beautter Furniture Mfg. Co.
- Best Beauty Furniture Co. Ltd.
- Billionworth Enterprises Ltd.
- Brittomart Inc.
- C.F. Kent Co., Inc.
- C.F. Kent Hospitality, Inc.
- Century Distribution Systems, Inc.
- Changshu HTC Import & Export Co., Ltd.
- Cheng Meng Decoration & Furniture (Suzhou) Co., Ltd.
- Cheng Meng Furniture (PTE) Ltd.
- Chuan Fa Furniture Factory
- Classic Furniture Global Co., Ltd.
- Dalian Guangming Furniture Co., Ltd.
- Dalian Huafeng Furniture Co., Ltd.
- Dalian Huafeng Furniture Group Co., Ltd.
- Der Cheng Furniture Co., Ltd.
- Der Cheng Wooden Works Of Factory
- Dongguan Bon Ten Furniture Co., Ltd.
- Dongguan Chengcheng Furniture Co., Ltd.
- Dongguan Dong He Furniture Co., Ltd.
- Dongguan Fortune Furniture Ltd.
- Dongguan Grand Style Furniture Co., Ltd.
- Dongguan Jinfeng Creative Furniture
- Dongguan Kingstone Furniture Co., Ltd., Kingstone Furniture Co., Ltd.
- Dongguan Lung Dong Furniture Co., Ltd.
- Dongguan Mingsheng Furniture Co., Ltd.
- Dongguan Mu Si Furniture Co., Ltd.
- Dongguan Nova Furniture Co., Ltd.
- Dongguan Sunshine Furniture Co., Ltd.
- Dongguan Yujia Furniture Co., Ltd.
- Dongguan Zhisheng Furniture Co., Ltd.
- Dongying Huanghekou Furniture Industry Co., Ltd.
- Dorbest Ltd., Rui Feng Woodwork Co., Ltd. Aka Rui Feng Woodwork (Dongguan) Co., Ltd., Rui Feng Lumber Development Co., Ltd. Aka Rui Feng Lumber Development (Shenzhen) Co., Ltd.

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[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China,* 70 FR 329 (January 4, 2005) ("Order").

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 81 FR 67 (January 4, 2016).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 11179 (March 3, 2016) ("*Initiation Notice*").

[4] *See, e.g., Certain Lined Paper Products from India: Notice of Partial Rescission of Countervailing Duty Administrative Review;* 2014, 81 FR 7082 (February 10, 2016).

[5] *See* Appendix. As stated in *Change in Practice in NME Reviews,* the Department will no longer consider the non-market economy ("NME") entity as an exporter conditionally subject to administrative reviews. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013) ("*Change in Practice in NME Reviews*"). The PRC-wide entity is not subject to this administrative review because no interested party requested a review of the entity. *See Initiation Notice.*

- Dream Rooms Furniture (Shanghai) Co., Ltd.
- Evergo Furniture Manufacturing Co., Ltd.
- Fine Furniture (Shanghai) Ltd.
- Fleetwood Fine Furniture LP
- Fortune Furniture Ltd.
- Fortune Glory Industrial Ltd. (H.K. Ltd.), Tradewinds Furniture Ltd.
- Foshan Bailan Imp. & Exp. Ltd.
- Foshan Shunde Longjiang Zhishang Furniture Factory.
- Fuijian Lianfu Forestry Co., Ltd. aka Fujian Wonder Pacific Inc.
- Fuzhou Huan Mei Furniture Co., Ltd.
- Guangdong New Four Seas Furniture Manufacturing Ltd.
- Guangzhou Lucky Furniture Co., Ltd.
- Guangzhou Maria Yee Furnishings Ltd., Pyla HK Ltd., Maria Yee, Inc.
- Hainan Jong Bao Lumber Co., Ltd.
- Haining Kareno Furniture Co., Ltd.
- Hang Hai Woodcraft's Art Factory.
- Hangzhou Jason Outdoor Furniture Co., Ltd.
- Hong Kong Da Zhi Furniture Co., Ltd.
- Hualing Furniture (China) Co., Ltd., Tony House Manufacture (China) Co., Ltd., Buysell Investments Ltd., Tony House Industries Co., Ltd.
- Hung Fai Wood Products Factory Ltd.
- Jasonwood Industrial Co., Ltd. S.A.
- Jiangmen Kinwai Furniture Decoration Co., Ltd.
- Jiangmen Kinwai International Furniture Co., Ltd.
- Jiangsu Dare Furniture Co., Ltd.
- Jiangsu Xiangsheng Bedtime Furniture Co., Ltd.
- Jiangsu Yuexing Furniture Group Co., Ltd.
- Jiashan Zhenxuan Furniture Co., Ltd.
- Jibbon Enterprise Co., Ltd.
- Jibson Industries Ltd.
- Jiedong Lehouse Furniture Co., Ltd.
- King's Way Furniture Industries Co., Ltd.
- Kingsyear Ltd.
- Kunshan Summit Furniture Co., Ltd.
- Liang Huang (Jiaxing) Enterprise Co., Ltd.
- Nantong Yangzi Furniture Co., Ltd.
- Nathan International Ltd., Nathan Rattan Factory.
- Orient International Holding Shanghai Foreign Trade Co., Ltd.
- Perfect Line Furniture Co., Ltd.
- Prime Best Factory.
- Prime Best International Co., Ltd.
- Prime Wood International Co., Ltd.
- Putian Jinggong Furniture Co., Ltd.
- Qingdao Beiyuan Industry Trading Co., Ltd.
- Qingdao Beiyuan Shengli Furniture Co., Ltd.
- Qingdao Liangmu Co., Ltd.
- Qingdao Shengchang Wooden Co., Ltd.
- Restonic (Dongguan) Furniture Ltd., Restonic Far East (Samoa) Ltd.
- Sen Yeong International Co., Ltd.
- Shanghai Maoji Imp And Exp Co., Ltd.
- Sheh Hau International Trading Ltd.
- Shenzhen Diamond Furniture Co., Ltd.
- Shenzhen Forest Furniture Co., Ltd.
- Shenzhen Jiafa High Grade Furniture Co., Ltd., Golden Lion International Trading Ltd.
- Shenzhen New Fudu Furniture Co., Ltd.
- Shenzhen Wonderful Furniture Co., Ltd.
- Shenzhen Xingli Furniture Co., Ltd.
- Shing Mark Enterprise Co., Ltd., Carven Industries Limited (BVI), Carven Industries Limited (HK), Dongguan Zhenxin Furniture Co., Ltd., Dongguan Yongpeng Furniture Co., Ltd.
- Songgang Jasonwood Furniture Factory.
- Starwood Industries Ltd.
- Strongson (HK) Co.
- Strongson Furniture (Shenzhen) Co., Ltd.
- Strongson Furniture Co., Ltd.
- Sunforce Furniture (Hui-Yang) Co., Ltd., Sun Fung Wooden Factory, Sun Fung Co., Shin Feng Furniture Co., Ltd., Stupendous International Co., Ltd.
- Super Art Furniture Co., Ltd.
- Superwood Co., Ltd., Lianjiang Zongyu Art Products Co., Ltd.
- Teamway Furniture (Dong Guan) Co., Ltd.
- Techniwood Industries Ltd., Ningbo Furniture Industries Ltd., Ningbo Hengrun Furniture Co., Ltd.
- Tube-Smith Enterprise (Haimen) Co., Ltd.
- Tube-Smith Enterprise (Zhangzhou) Co., Ltd.
- U-Rich Furniture (Zhangzhou) Co., Ltd., U-Rich Furniture Ltd.
- Weimei Furniture Co., Ltd.
- Wuxi Yushea Furniture Co., Ltd.
- Xiamen Yongquan Sci-Tech Development Co., Ltd.
- Xilinmen Group Co., Ltd.
- Yichun Guangming Furniture Co., Ltd.
- Yihua Timber Industry Co., Ltd., Guangdong Yihua Timber Industry Co., Ltd.
- Zhang Zhou Sanlong Wood Product Co., Ltd.
- Zhangjiagang Daye Hotel Furniture Co., Ltd.
- Zhangjiang Sunwin Arts & Crafts Co., Ltd.
- Zhangzhou Guohui Industrial & Trade Co., Ltd.
- Zhong Shan Fullwin Furniture Co., Ltd.
- Zhong Shun Wood Art Co.
- Zhongshan Fookyik Furniture Co., Ltd.
- Zhongshan Golden King Furniture Industrial Co., Ltd.
- Zhoushan For-Strong Wood Co., Ltd.

[FR Doc. 2016–21631 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–046]

Countervailing Duty Investigation of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the "Department") preliminarily determines that countervailable subsidies are being provided to producers and exporters of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid ("HEDP") from the People's Republic of China (the "PRC"). We invite interested parties to comment on this preliminary determination.

DATES: Effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Andrew Devine, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202.482.2243 or 202.482.0238, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise covered by this investigation includes all grades of aqueous acidic (non-neutralized) concentrations of HEDP, also referred to as hydroxyethylidenendiphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The Chemical Abstract Service ("CAS") registry number for HEDP is 2809–21–4.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 2931.90.9043. It may also enter under HTSUS subheadings 281.19.6090 and 2931.90.9041. While HTSUS subheadings and the CAS registry number are provided for convenience and customs purposes only, the written description of the scope of this investigation is dispositive.

Methodology

The Department is conducting this countervailing duty ("CVD") investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the "Act"). For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memo.[1] The Preliminary Decision Memo is a public document and is on file electronically *via* Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").[2]

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[1] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Countervailing Duty Investigation of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Decision Memorandum for the Preliminary Determination," dated concurrently with this notice ("Preliminary Decision Memo").

[2] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and

ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memo can be accessed directly on the Internet at *http://trade.gov/enforcement/frn/index.html.* The signed Preliminary Decision Memo and the electronic versions of the Preliminary Decision Memo are identical in content.

In making these findings, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.[3] For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memo.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty ("AD") investigation of HEDP from the PRC.[4] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than January 10, 2017, unless postponed. *See* Preliminary Decision Memo.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an estimated individual countervailable subsidy rate for each producer/exporter of the subject merchandise individually investigated. We preliminarily determine these rates to be:

Company	Subsidy rate
Shandong Taihe Chemicals Co., Ltd. ("Taihe Chemicals") and Shandong Taihe Water Treatment Technologies Co., Ltd. ("Taihe Technologies")	2.37
Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory ("Wujin Water")	1.04
All Others[5]	1.71
*Changzhou Kewei Fine Chemicals Co., Ltd	36.33
*Hebei Longke Water Treatment Co., Ltd	36.33
*Shandong Huayou Chemistry Co., Ltd	36.33
*Shandong Xintai Water Treatment Technology	36.33
*Zaozhuang Fuxing Water Treatment Technology	36.33
*Zaozhuang YouBang Chemicals Co., Ltd	36.33
*Zouping Dongfang Chemical Industry Co., Ltd	36.33

* Non-cooperative company to which an adverse facts available rate is being applied. *See* "Use of Facts Otherwise Available and Adverse Inferences" section in the Preliminary Decision Memorandum.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of HEDP from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the "all-others" rate by weight averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. Therefore, for the "all-others" rate, we calculated a simple average of the two responding firms' rates.

Disclosure and Public Comment

The Department will disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments for all non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[7] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission ("ITC") of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written

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Compliance's AD and CVD Centralized Electronic Service System ("IA ACCESS") to AD and CVD Centralized Electronic Service System ("ACCESS"). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046.

[3] *See* sections 776(a) and (b) of the Act.

[4] *See* 1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation, 81 FR 25377 (April 28, 2016).

[5] Including Jianghai Environmental Protection Co., Ltd.

[6] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[7] *See* 19 CFR 351.310(c).

consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: August 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memo

I. Summary
II. Background
III. Alignment
IV. Scope Comments
V. Scope of the Investigation
VI. Respondent Selection
VII. Injury Test
VIII. Application of CVD Law to Imports From the PRC
IX. Subsidies Valuation
X. Benchmarks
XI. Use of Facts Otherwise Available and Adverse Inferences
XII. Analysis of Programs
XIII. Verification
XIV. Conclusion

[FR Doc. 2016–21483 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”), the Department of Commerce (“the Department”) and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for October 2016

The following Sunset Reviews are scheduled for initiation in October 2016 and will appear in that month’s Notice of Initiation of Five-Year Sunset Review (“Sunset Review”).

	Department contact
Antidumping Duty Proceedings	
Artist Canvas from China (A–570–899) (2nd Review)	David Goldberger (202) 482–4136.
Pure Magnesium from China (A–570–832) (4th Review)	David Goldberger (202) 482–4136.

Countervailing Duty Proceedings

No Sunset Review of countervailing duty orders is scheduled for initiation in October 2016.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in October 2016.

The Department’s procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (“Sunset”) Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 25, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–21662 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 10, 2016, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar (SSB) from India. The period of review (POR) is February 1, 2014, through January 31, 2015. Based on comments received from interested parties, we have made changes to the preliminary results. The final dumping margin for this review is listed in the “Final Results of the Review” section below.

DATES: Effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Joseph Shuler, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1293.

SUPPLEMENTARY INFORMATION:

Background

Following the *Preliminary Results,*[1] the Department issued an additional supplemental questionnaire to Bhansali Bright Bars Pvt. Ltd. (Bhansali) on March 20, 2015, and received a response on April 2, 2015.[2] We received timely filed case and rebuttal briefs from Bhansali and North American Stainless and Valbruna Slater Stainless, Inc. (the petitioners) and a case brief from Ambica Steels Limited (Ambica).[3]

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[1] *See Stainless Steel Bar From India: Preliminary Results, and Rescission, in Part, of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 12694 (March 10, 2016) (*Preliminary Results*).

[2] *See* Letter from the Department to Bhansali, “Antidumping Duty Administrative Review of Stainless Steel Bar from India: Second Section D Supplemental Questionnaire,” dated March 25, 2016; *see also* Letter from Bhansali, “Bhansali Bright Bars Private Limited 2nd Supplemental Response to Section D of Antidumping Duty Questionnaire,” dated April 8, 2016.

Scope of the Order

The merchandise subject to the order is SSB. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description is dispositive.[4]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum, which is incorporated herein by reference. A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov/login.aspx,* and it is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes since the *Preliminary Results.* For a discussion of these changes, see the Issues and Decision Memorandum.

Final Results of the Review

As a result of this review, we determine the following weighted-average dumping margin exists for the respondents for the period February 1, 2014, through January 31, 2015.

Producer/exporter	Weighted-average dumping margin (percent)
Bhansali Bright Bars Pvt. Ltd	0.00
Ambica Steels Limited	0.00

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with 19 CFR 351.212(b)(1). The respondents' weighted-average dumping margin in these final results is zero percent. Therefore, we will instruct CBP to liquidate all appropriate entries without regard to antidumping duties. The Department intends to issue the appropriate assessment instructions for Ambica and Bhansali to CBP 15 days after the date of publication of these final results.

The Department clarified its "automatic assessment" regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by Ambica and Bhansali for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate companies involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for Ambica and Bhansali will be the rates established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 12.45 percent, the "all others" rate established in the order.[5] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

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[3] *See* Letter from the petitioners to the Department, "Petitioners' Case Brief," (Petitioner's CB), April 14, 2016; *see also,* letter from Bhansali to the Department, "Certain Stainless Steel Bar Product from India: Bhansali's Case Brief," (Bhansali's CB), April 14, 2016; *see also,* letter from Ambica to the Department, "Stainless Steel Bar from India: Ambica Steels Ltd Case Brief," (Ambica's CB), April 14, 2016; *see also* letter from the petitioners to the Department, "Petitioners' Rebuttal Brief," (Petitioners' RB), April 25, 2016; *see also,* letter from Bhansali to the Department, "Stainless Steel Bar from India: Bhansali Bright Bars Private Limited's (Bhansali) Rebuttal Brief dated May 11, 2015," (Bhansali's RB), April 28, 2016.

[4] For a full description of the scope of the order, see the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Stainless Steel Bar from India" dated concurrently with this notice (Issues and Decision Memorandum), which is hereby adopted by this notice.

[5] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India,* 59 FR 66915, 66921 (December 28, 1994).

Dated: September 1, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Issues Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the Preliminary Results
- IV. Scope of the Order
- V. Discussion of the Issues
  - Comment 1: Whether to Name Respondents' Customers in Final Liquidation Instructions
  - Comment 2: Whether Bhansali is an Uncooperative Respondent
  - Comment 3: Whether the Department Should Accept Bhansali's Sales and Cost Data
  - Comment 4: Whether the Department Properly Handled the Billing Adjustments in the Preliminary Results
- VI. Recommendation

[FR Doc. 2016–21656 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: For the final results of the administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China, we find that sales were made at less than normal value. The period of review is April 1, 2014, through March 31, 2015. Based upon our analysis of the comments received, we made changes to the margin calculations for these final results of the antidumping duty administrative review. The final weighted-average dumping margins are listed below in the "Final Results of the Review" section of this notice.

DATES: Effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Frances Veith, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–9068, or (202) 482–4295, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("Department") published the *Preliminary Results*[1] on March 4, 2016. For events subsequent to the *Preliminary Results,* see the Department's final Issues and Decision Memorandum.[2] On June 13, 2016,[3] in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("Act"), the Department extended the deadline for issuing the final results by 60 days. The deadline for the final results is August 31, 2016.

Verification

Pursuant to section 782(i) of the Tariff Act of 1930, as amended (the "Act"), and 19 CFR 351.307(b)(iv), we conducted verification of Jacobi's U.S. sales from March 29–30, 2016.[4]

Scope of the Order

The merchandise subject to the *Order*[5] is certain activated carbon. The products are currently classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 3802.1000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.[6]

Analysis of Comments Received

In the Issues and Decision Memorandum, we addressed all issues raised in parties' case and rebuttal briefs. In Appendix I to this notice, we have provided a list of the issues raised by parties. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU"), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the CRU. In addition, parties can directly access a complete version of the Issues and Decision Memorandum on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding our *Preliminary Results,* we have made certain revisions to the margin calculations for Jacobi, Datong Juqiang, and the non-examined, separate rate respondents.[7] Further, the Surrogate Values Memo[8] contains descriptions of our changes to the surrogate values.

Final Determination of No Shipments

In the *Preliminary Results,* the Department preliminarily determined that Carbon Activated Tianjin Co. Ltd. had no shipments during the period of review ("POR").[9] We have received no information to contradict this determination. Therefore, the Department continues to determine that Carbon Activated Tianjin Co. Ltd. had no shipments of subject merchandise during the POR, and will issue appropriate liquidation instructions that are consistent with our "automatic assessment" clarification, for these final results.[10]

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[1] *See Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 11513 (March 4, 2016), and accompanying Preliminary Decision Memorandum ("*Preliminary Results*").

[2] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding "Certain Activated Carbon from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Eighth Antidumping Duty Administrative Review," dated concurrently with and hereby adopted by this notice, ("Issues and Decision Memorandum").

[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary, through James C. Doyle, Director, Office V, from Bob Palmer International Trade Compliance Analyst, Office V, regarding "Activated Carbon from the People's Republic of China: Extension of Deadline for Final Results of 2014–2015 Antidumping Duty Administrative Review," dated June 13, 2016.

[4] *See* Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Bob Palmer and Ryan Mullen, International Trade Compliance Analysts, Office V, "Verification of the Constructed Export Price ("CEP") Sales Response of Jacobi Carbons AB in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China," dated April 5, 2016.

[5] *See Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China,* 72 FR 20988 (April 27, 2007) ("*Order*").

[6] *See* Issues and Decision Memorandum for a complete description of the Scope of the *Order.*

[7] *See* Issues and Decision Memorandum and the company-specific analysis memoranda for further explanation regarding these changes.

[8] *See* Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Bob Palmer, Case Analyst, Office V, Certain Activated Carbon from the People's Republic of China ("PRC"): Surrogate Values for the Final Results," dated concurrently with this notice ("Surrogate Values Memo").

[9] *See Preliminary Determination* at 11513.

[10] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 4, 2011) ("*Assessment Practice Refinement*").

Separate Rate Respondents

In our *Preliminary Results,* we determined that the following companies (including both mandatory respondents) met the criteria for separate rate status:

- Beijing Pacific Activated Carbon Products Co., Ltd.[11]
- Calgon Carbon (Tianjin) Co., Ltd.;
- Datong Municipal Yunguang Activated Carbon Co., Ltd.;
- Datong Juqiang Activated Carbon Co., Ltd.;
- Jacobi Carbons AB; Jilin Bright Future Chemicals Company, Ltd.;
- Ningxia Guanghua Activated Carbon Co., Ltd. (“Guanghua”);
- Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.;
- Ningxia Huahui Activated Carbon Co., Ltd.;
- Ningxia Mineral & Chemical Limited;
- Shanxi Dapu International Trade Co., Ltd.;
- Shanxi DMD Corporation;
- Shanxi Industry Technology Trading Co., Ltd.;
- Shanxi Sincere Industrial Co., Ltd.;
- Shanxi Tianxi Purification Filter Co., Ltd.;
- Sinoacarbon International Trading Co., Ltd.;
- Tancarb Activated Carbon Co., Ltd.;
- Tianjin Channel Filters Co., Ltd.; and
- Tianjin Maijin Industries Co., Ltd.[12]

We have received no comments or argument since the issuance of the *Preliminary Results* that provides a basis for reconsideration of these determinations. Therefore, the Department continues to find that the companies listed above meet the criteria for a separate rate.

Rate for Non-Examined Separate Rate Respondents

In the *Preliminary Results,*[13] and consistent with the Department's practice,[14] we assigned the non-examined, separate rate companies a rate equal to the weighted average of the calculated weighted-average dumping margins for the mandatory respondents that are not zero, *de minimis* (*i.e.,* less than 0.5 percent) or based entirely on facts available, weighted by the total U.S. sales quantities from the public version of the submissions from the mandatory respondents.[15] No parties commented on the methodology for calculating this separate rate. For the final results, we continue to apply this approach, as it is consistent with the intent of section 735(c)(5)(A) of the Act and our use of section 735(c)(5)(A) of the Act.[16]

Final Results of the Review

For companies subject to this review, which established their eligibility for a separate rate, the Department determines that the following weighted-average dumping margins exist for the POR from April 1, 2014, through March 31, 2015:

Exporter	Weighted-average dumping margin (USD/kg)[17]
Jacobi Carbons AB[18]	1.756
Datong Juqiang Activated Carbon Co., Ltd	0.020
Calgon Carbon (Tianjin) Co., Ltd	1.357
Datong Municipal Yunguang Activated Carbon Co., Ltd	1.357
Jilin Bright Future Chemicals Company, Ltd	1.357
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd[19]	1.357
Ningxia Huahui Activated Carbon Co., Ltd	1.357
Ningxia Mineral and Chemical Limited	1.357
Shanxi DMD Corporation	1.357
Shanxi Dapu International Trade Co., Ltd	1.357
Shanxi Industry Technology Trading Co., Ltd	1.357
Shanxi Sincere Industrial Co., Ltd	1.357
Shanxi Tianxi Purification Filter Co., Ltd	1.357
Sinoacarbon International Trading Co., Ltd	1.357
Tancarb Activated Carbon Co., Ltd	1.357
Tianjin Channel Filters Co., Ltd	1.357
Tianjin Maijin Industries Co., Ltd	1.357

The Department finds that 181 companies for which a review was

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[11] In the first administrative review, the Department found Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., and Guanghua are a single entity and there is no information on the record to indicate the facts have changed. Therefore, we continue to treat these companies as a single entity. *See Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results,* 74 FR 21317 (May 7, 2009), unchanged in *First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 57995 (November 10, 2009) (“AR1 Carbon”); *AR5 PRC Carbon Final,* 78 FR at 70535; *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163, 70165 (November 26, 2013) at footnote 33.

[12] *See Preliminary Results,* 81 FR 11514; Preliminary Decision Memorandum at 6–11.

[13] *See* Preliminary Decision Memorandum at 10–11.

[14] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 56158, 56160 (September 12, 2011) (“*Vietnam Shrimp*”).

[15] *See* Jacobi's public version of its supplemental Section A questionnaire response, dated July 31, 2015, at Exhibit A–1; *see also* Datong Juqiang's Public Version of Exhibit A–1 for the Section A Response, dated July 20, 2015.

[16] *See Vietnam Shrimp,* 76 FR at 56160.

[17] In the second administrative review of the *Order,* the Department determined that it would calculate per-unit weighted-average dumping margins and assessment rates for all future reviews. *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208, 70211 (November 17, 2010).

[18] In the third administrative review of the *Order,* the Department found that Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity and, because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Third*

Continued

requested did not establish eligibility for a separate rate because they either failed to provide a timely response to a separate rate application ("SRA"), to a supplemental questionnaire, or did not file a SRA or a separate rate certification ("SRC").[20] As such, we determine these companies, listed in Appendix II of this notice, to be part of the PRC-wide entity. Because no party requested a review of the PRC-wide entity and the Department no longer considers the PRC-wide entity as an exporter conditionally subject to administrative reviews,[21] we did not conduct a review of the PRC-wide entity. Thus, the weighted-average dumping margin for the PRC-wide entity (*i.e.*, 2.42 USD/kg) [22] is not subject to change as a result of this review.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), the Department has determined, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review.

For any individually examined respondent whose weighted-average dumping margin is above the *de minimis* threshold (*i.e.*, 0.50 percent), the Department will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

As the Department stated in the most recent administrative review,[23] we will continue to direct CBP to assess importer-specific assessment rates [24] based on per-unit (*i.e.*, per-kilogram) rates. Specifically, we calculated importer-specific, antidumping duty assessment rates on a per-unit rate basis by dividing the total amount of dumping for each importer by the total sales quantity of subject merchandise sold to that importer during the POR.

Pursuant to a refinement in the Department's non-market economy ("NME") practice, for sales that were not reported in the U.S. sales data submitted by companies individually examined during this review, the Department will instruct CBP to liquidate entries associated with those sales at the rate for the PRC-wide entity. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's cash deposit rate) will be liquidated at the rate for the PRC-wide entity.[25]

Cash Deposit Requirements

The following per-unit cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For Jacobi, Datong, and the non-examined, separate rate respondents, the cash deposit rate will be equal to their weighted-average dumping margins established in the final results of this review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin for the PRC-wide entity (*i.e.*, 2.42 USD/kg); and (4) for all non-PRC exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These per-unit cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's

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Antidumping Duty Administrative Review, 76 FR 67142 (October 31, 2011); *Certain Activated Carbon From the People's Republic of China; 2010–2011; Certain Activated Carbon From the People's Republic of China; 2010–2011; Final Results of Antidumping Duty Administrative Review, 77 FR 67337, 67338 (November 9, 2012); Certain Activated Carbon From the People's Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review, 78 FR 70533, 70535 (November 26, 2013); Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013, 79 FR 70163, 70165 (November 25, 2014). Final Results of Antidumping Duty Administrative Review,* 77 FR 67337, 67338 (November 9, 2012); *Certain Activated Carbon From the People's Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review,* 78 FR 70533, 70535 (November 26, 2013); *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163, 70165 (November 25, 2014), and; *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 61172 (October 9, 2015) ("*AR5 Final*"). *See also* Preliminary Decision Memorandum.

[19] In the first administrative review of the *Order,* the Department found that Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., and Ningxia Guanghua Activated Carbon Co., Ltd. are a single entity and, because there were no changes to the facts which supported that decision since that determination, we continue to find that these companies are part of a single entity for this administrative review. *See Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results,* 74 FR 21317 (May 7, 2009), unchanged in *First Administrative Review of Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 57995 (November 10, 2009); and *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 2011–2012, 78 FR 70533 (November 26, 2013) at footnote 33; *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163, 70165 (November 25, 2014), and *AR5 Final. See also* Preliminary Decision Memorandum.

[20] Two companies, Beijing Embrace Technology Co. Ltd. ("Beijing Embrace") and Shanxi Carbon Industry Co., Ltd. ("Shanxi Carbon"), did not establish eligibility for a separate rate because Beijing Embrace and Shanxi Carbon failed to provide a timely response to a separate rate application ("SRA") or to a supplemental questionnaire and 179 companies did not establish eligibility for a separate rate because they did not provide the Department with a response to a SRA or a separate rate certification ("SRC"). *See* Preliminary Decision Memorandum at 9.

[21] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[22] *See Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163, 70165 (November 25, 2014).

[23] *See Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 61172, 61175 (October 9, 2015).

[24] *See* 19 CFR 351.212(b)(1).

[25] For a full discussion of this practice, *see Assessment Practice Refinement,* 76 FR at 65694.

presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: August 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Issues and Decision Memorandum

Summary
Background
Scope of the Order
Changes Since the *Preliminary Results*
Discussion of the Issues
  Comment 1: Value Added Tax ("VAT") and Entered Value
  Comment 2: Surrogate Country Selection
  Comment 3: Anthracite Coal Surrogate Value
  Comment 4: Whether to Account for In-Bound Freight for the Anthracite Coal Surrogate Value
  Comment 5: Carbonized Material Surrogate Value
  Comment 6: Hydrochloric Acid ("HCl") Surrogate Value
  Comment 7: Labor
  Comment 8: Coal Tar Surrogate Value
  Comment 9: Brokerage and Handling Surrogate Value
  Comment 10: Financial Statements Selection
  Comment 11: Whether the Department Should Treat Sales Through Datong Juqiang Activated Carbon USA LLC ("DJAC USA") as Export Price ("EP") Sales
  Comment 12: The Proper Basis for the Calculation of U.S. Duty Expenses
  Comment 13: U.S. CBP Entries Incorrectly Attributed to Datong Juqiang
  Comment 14: Whether Jacobi's Purchased Carbonized Materials are Correctly Valued
  Comment 15: Whether to Cap Jacobi's U.S. Freight Revenue
Recommendation

Appendix II

COMPANIES NOT ESTABLISHING ELIGIBILITY FOR A SEPARATE RATE AND TREATED AS PART OF PRC-WIDE ENTITY

	Company name
1	AmeriAsia Advanced Activated Carbon Products Co., Ltd.
2	Anhui Handfull International Trading (Group) Co., Ltd.
3	Anhui Hengyuan Trade Co. Ltd.
4	Anyang Sino-Shon International Trading Co., Ltd.
5	Baoding Activated Carbon Factory.
6	Beijing Broad Activated Carbon Co., Ltd.
7	Beijing Embrace Technology Co. Ltd.
8	Beijing Haijian Jiechang Environmental Protection Chemicals.
9	Beijing Hibridge Trading Co., Ltd.
10	Bengbu Jiuton Trade Co. Ltd.
11	Carbon Activated Tianjin Co., Ltd.
12	Changji Hongke Activated Carbon Co., Ltd.
13	Chengde Jiayu Activated Carbon Factory.
14	China National Building Materials and Equipment Import and Export Corp.
15	China National Nuclear General Company Ningxia Activated Carbon Factory.
16	China Nuclear Ningxia Activated Carbon Plant.
17	China SDIC International Trade Co., Ltd.
18	Da Neng Zheng Da Activated Carbon Co., Ltd.
19	Datong Carbon Corporation.
20	Datong Changtai Activated Carbon Co., Ltd.
21	Datong City Zuoyun County Activated Carbon Co., Ltd.
22	Datong Fenghua Activated Carbon.
23	Datong Forward Activated Carbon Co., Ltd.
24	Datong Fuping Activated Carbon Co. Ltd.
25	Datong Guanghua Activated Co., Ltd.
26	Datong Hongtai Activated Carbon Co., Ltd.
27	Datong Huanqing Activated Carbon Co., Ltd.
28	Datong Huaxin Activated Carbon.
29	Datong Huibao Activated Carbon Co., Ltd.
30	Datong Huibao Active Carbon Co., Ltd.
31	Datong Huiyuan Cooperative Activated Carbon Plant.
32	Datong Kaneng Carbon Co. Ltd.
33	Datong Locomotive Coal & Chemicals Co., Ltd.
34	Datong Tianzhao Activated Carbon Co., Ltd.
35	DaTong Tri-Star & Power Carbon Plant.
36	Datong Weidu Activated Carbon Co., Ltd.
37	Datong Xuanyang Activated Carbon Co., Ltd.
38	Datong Zuoyun Biyun Activated Carbon Co., Ltd.
39	Datong Zuoyun Fu Ping Activated Carbon Co., Ltd.
40	Dongguan Baofu Activated Carbon.
41	Dongguan SYS Hitek Co., Ltd.
42	Dushanzi Chemical Factory.
43	Fijian Zhixing Activated Carbon Co., Ltd.
44	Fu Yuan Activated Carbon Co., Ltd.
45	Fujian Jianyang Carbon Plant.

Companies Not Establishing Eligibility for a Separate Rate and Treated as Part of PRC-Wide Entity—Continued

	Company name
46	Fujian Nanping Yuanli Activated Carbon Co., Ltd.
47	Fujian Xinsen Carbon Co., Ltd.
48	Fujian Yuanli Active Carbon Co., Ltd.
49	Fuzhou Taking Chemical.
50	Fuzhou Yihuan Carbon.
51	Great Bright Industrial.
52	Hangzhou Hengxing Activated Carbon.
53	Hangzhou Hengxing Activated Carbon Co., Ltd.
54	Hangzhou Linan Tianbo Material (HSLATB).
55	Hangzhou Nature Technology.
56	Hangzhou Waterland Environment Technologies Co., Ltd.
57	Hebei Foreign Trade and Advertising Corporation.
58	Hebei Shenglun Import & Export Group Company.
59	Hegongye Ninxia Activated Carbon Factory.
60	Heilongjiang Provincial Hechang Import & Export Co., Ltd.
61	Hongke Activated Carbon Co., Ltd.
62	Huaibei Environment Protection Material Plant.
63	Huairen Huanyu Purification Material Co., Ltd.
64	Huairen Jinbei Chemical Co., Ltd.
65	Huaiyushan Activated Carbon Group.
66	Huatai Activated Carbon.
67	Huzhou Zhonglin Activated Carbon.
68	Inner Mongolia Taixi Coal Chemical Industry Limited Company.
69	Itigi Corp. Ltd.
70	J&D Activated Carbon Filter Co. Ltd.
71	Jiangle County Xinhua Activated Carbon Co., Ltd.
72	Jiangsu Taixing Yixin Activated Carbon Technology Co., Ltd.
73	Jiangxi Hanson Import Export Co.
74	Jiangxi Huaiyushan Activated Carbon.
75	Jiangxi Huaiyushan Activated Carbon Group Co.
76	Jiangxi Huaiyushan Suntar Active Carbon Co., Ltd.
77	Jiangxi Jinma Carbon.
78	Jiangxi Yuanli Huaiyushan Active Carbon Co., Ltd.
79	Jianou Zhixing Activated Carbon.
80	Jiaocheng Xinxin Purification Material Co., Ltd.
81	Jilin Province Bright Future Industry and Commerce Co., Ltd.
82	Jing Mao (Dongguan) Activated Carbon Co., Ltd.
83	Kaihua Xingda Chemical Co., Ltd.
84	Kemflo (Nanjing) Environmental Tech.
85	Keyun Shipping (Tianjin) Agency Co., Ltd.
86	Kunshan Actview Carbon Technology Co., Ltd.
87	Langfang Winfield Filtration Co.
88	Link Shipping Limited.
89	Longyan Wanan Activated Carbon.
90	Meadwestvaco (China) Holding Co., Ltd.
91	Mindong Lianyi Group.
92	Nanjing Mulinsen Charcoal.
93	Nantong Ameriasia Advanced Activated Carbon Product Co., Ltd.
94	Ningxi Baiyun Carbon Co., Ltd.
95	Ningxia Baota Activated Carbon Co., Ltd.
96	Ningxia Baota Active Carbon Plant.
97	Ningxia Blue-White-Black Activated Carbon (BWB).
98	Ningxia Fengyuan Activated Carbon Co., Ltd.
99	Ningxia Guanghua Chemical Activated Carbon Co., Ltd.
100	Ningxia Haoqing Activated Carbon Co., Ltd.
101	Ningxia Henghui Activated Carbon.
102	Ningxia Honghua Carbon Industrial Corporation.
103	Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.
104	Ningxia Jirui Activated Carbon.
105	Ningxia Lingzhou Foreign Trade Co., Ltd.
106	Ningxia Luyuangheng Activated Carbon Co., Ltd.
107	Ningxia Pingluo County Yaofu Activated Carbon Plant.
108	Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.
109	Ningxia Pingluo Yaofu Activated Carbon Factory.
110	Ningxia Taixi Activated Carbon.
111	Ningxia Tianfu Activated Carbon Co., Ltd.
112	Ningxia Weining Active Carbon Co., Ltd.
113	Ningxia Xingsheng Coal and Active Carbon Co., Ltd.
114	Ningxia Xingsheng Coke & Activated Carbon Co., Ltd.
115	Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.
116	Ningxia Yirong Alloy Iron Co., Ltd.

COMPANIES NOT ESTABLISHING ELIGIBILITY FOR A SEPARATE RATE AND TREATED AS PART OF PRC-WIDE ENTITY—Continued

	Company name
117	Ningxia Zhengyuan Activated.
118	Ningzxia Guanghua A/C Co., Ltd.
119	Ninxia Tongfu Coking Co., Ltd.
120	Nuclear Ningxia Activated Carbon Co., Ltd.
121	OEC Logistic Qingdao Co., Ltd.
122	OEC Logistics Co., Ltd. (Tianjin).
123	Panshan Import and Export Corporation.
124	Pingluo Xuanzhong Activated Carbon Co., Ltd.
125	Pingluo Yu Yang Activated Carbon Co., Ltd.
126	Shanghai Activated Carbon Co., Ltd.
127	Shanghai Astronautical Science Technology Development Corporation.
128	Shanghai Coking and Chemical Corporation.
129	Shanghai Goldenbridge International.
130	Shanghai Jiayu International Trading (Dezhou Jiayu and Chengde Jiayu).
131	Shanghai Jinhu Activated Carbon (Xingan Shenxin and Jiangle Xinhua).
132	Shanghai Light Industry and Textile Import & Export Co., Ltd.
133	Shanghai Mebao Activated Carbon.
134	Shanghai Xingchang Activated Carbon.
135	Shanxi Blue Sky Purification Material Co., Ltd.
136	Shanxi Carbon Industry Co., Ltd.
137	Shanxi Newtime Co., Ltd.
138	Shanxi Qixian Foreign Trade Corporation.
139	Shanxi Qixian Hongkai Active Carbon Goods.
140	Shanxi Supply and Marketing Cooperative.
141	Shanxi Tianli Ruihai Enterprise Co.
142	Shanxi U Rely International Trade.
143	Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.
144	Shanxi Xinhua Activated Carbon Co., Ltd.
145	Shanxi Xinhua Chemical Co., Ltd. (formerly Shanxi Xinhua Chemical Factory).
146	Shanxi Xinhua Protective Equipment.
147	Shanxi Xinshidai Import Export Co., Ltd.
148	Shanxi Xuanzhong Chemical Industry Co., Ltd.
149	Shanxi Zuoyun Yunpeng Coal Chemistry.
150	Shenzhen Sihaiweilong Technology Co.
151	Shijiazhuang Xinshuang Trade Co., Ltd.
152	Sincere Carbon Industrial Co. Ltd.
153	Taining Jinhu Carbon.
154	Taiyuan Hengxinda Trade Co., Ltd.
155	Tangshan Solid Carbon Co., Ltd.
156	Tianchang (Tianjin) Activated Carbon.
157	Tianjin Century Promote International Trade Co., Ltd.
158	Tonghua Bright Future Activated Carbon Plant.
159	Tonghua Xinpeng Activated Carbon Factory.
160	Top One International Trading Co., Ltd.
161	Triple Eagle Container Line.
162	Uniclear New-Material Co., Ltd.
163	United Manufacturing International (Beijing) Ltd.
164	Valqua Seal Products (Shanghai) Co.
165	VitaPac (HK) Industrial Ltd.
166	Wellink Chemical Industry.
167	Xi Li Activated Carbon Co., Ltd.
168	Xi'an Shuntong International Trade & Industrials Co., Ltd.
169	Xiamen All Carbon Corporation.
170	Xingan County Shenxin Activated Carbon Factory.
171	Xinhua Chemical Company Ltd.
172	Xuanzhong Chemical Industry.
173	Yangyuan Hengchang Active Carbon.
174	Yicheng Logistics.
175	Yinchuan Lanqiya Activated Carbon Co., Ltd.
176	Zhejiang Quizhou Zhongsen Carbon.
177	Zhejiang Topc Chemical Industry Co.
178	Zhejiang Xingda Activated Carbon Co., Ltd.
179	Zhejiang Yun He Tang Co., Ltd.
180	Zhuxi Activated Carbon.
181	Zuoyun Bright Future Activated Carbon Plant.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–809]

Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective September 8, 2016.

SUMMARY: As a result of this sunset review, the Department of Commerce (the Department) finds that revocation of the antidumping duty order on certain hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from the Russian Federation (Russia) would be likely to lead to continuation or recurrence of dumping at the rates identified in the "Final Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Dena Crossland, AD/CVD Operations, Offices VII and VI, respectively, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5255 and (202) 482–3362, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on hot-rolled steel from Russia on December 24, 2014.[1] On May 2, 2016, the Department initiated a sunset review of the *Russia Order* in accordance with section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On May 16, 2016, and May 17, 2016, the Department received notices of intent to participate from United States Steel Corporation, SSAB Enterprises LLC, Steel Dynamics, Inc., ArcelorMittal USA, LLC, AK Steel Corporation, and Nucor Corporation (collectively, domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i). Domestic interested parties are manufacturers of a domestic like product in the United States and, accordingly, are domestic interested parties pursuant to section 771(9)(C) of the Act.

On June 1, 2016, the Department received an adequate substantive response to the notice of initiation from domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department did not receive any responses from the respondent interested parties, *i.e.,* hot-rolled steel producers and exporters from Russia. On the basis of the notices of intent to participate and adequate substantive responses filed by the domestic interested parties and no response from any respondent interested party, the Department conducted an expedited sunset review of the *Russia Order* pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C).

Scope of the Order

For the purposes of this order, "hot-rolled steel" means certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness.

Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.,* ASTM specifications A543, A387, A514, A517, and A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–.70%	0.20–0.40%	0.20% Max.

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

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[1] *See Termination of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, Rescission of 2013–2014 Administrative Review, and Issuance of Antidumping Duty Order,* 79 FR 77455 (December 24, 2014) (*Russia Order*).

[2] *See Initiation of Five-Year ("Sunset") Review,* 81 FR 26209 (May 2, 2016).

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Mo
0.10–0.16% ..	0.70%–0.90%	0.25%Max	0.006% Max	0.30–0.50%	0.50–0.70% ..	0.25% Max ...	0.20% Max	0.21% Max.

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	V (wt.)	Cb
0.10–0.14%	1.30–1.80%	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max.	0.10 Max ...	0.08% Max.

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Nb	Ca	A1
0.15% Max.	1.40% Max.	0.025% Max.	0.010% Max.	0.50% Max.	1.00% Max.	0.50% Max.	0.20% Max.	0.005% Nax.	Treated ..	0.001–0.07%.

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

—Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm2 and 640 N/mm2 and an elongation percentage 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm2 and 690 N/mm2 and an elongation percentage 25 percent for thicknesses of 2 mm and above.

—Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows:

—0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

—Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inch nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.

The covered merchandise is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered include: Vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

The issues discussed in the Decision Memorandum[3] are the likelihood of continuation or recurrence of dumping, and the magnitude of the margins of dumping likely to prevail if this order was revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in the Decision Memorandum which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit in Room B8024 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/enforcement/*. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

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[3] *See* Department Memorandum, "Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Certain Hot-Rolled Carbon-Quality Steel Flat Products from the Russian Federation; Final Results," dated concurrently with this notice (Decision Memorandum).

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the *Russia Order* would be likely to lead to continuation or recurrence of dumping at weighted average margins up to the following:

Exporter/producer	Weighted-average margin (percent)
JSC Severstal	73.59
Russia-Wide Rate	184.56

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return of destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: August 30, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance/

[FR Doc. 2016–21652 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (“the Act”), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (“the Department”) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be “collapsed” (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after September 2016, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its “Opportunity to Request Administrative Review” notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of September 2016,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

	Period of review
Antidumping Duty Proceedings	
Belarus: Steel Concrete Reinforcing Bars A–822–804	9/1/15–8/31/16
India: Lined Paper Products A–533–843	9/1/15–8/31/16
India: Oil Country Tubular Goods A–533–857	9/1/15–8/31/16
Indonesia: Steel Concrete Reinforcing Bars A–560–811	9/1/15–8/31/16
Japan: Stainless Steel Wire Rod A–588–843	9/1/15–8/31/16
Latvia: Steel Concrete Reinforcing Bars A–449–804	9/1/15–8/31/16
Mexico: Magnesia Carbon Bricks A–201–837	9/1/15–8/31/16
Moldova: Steel Concrete Reinforcing Bars –841–804	9/1/15–8/31/16
Poland: Steel Concrete Reinforcing Bars A–455–803	9/1/15–8/31/16
Republic of Korea: Oil Country Tubular Goods A–580–870	9/1/15–8/31/16
Republic of Korea: Stainless Steel Wire Rod A–580–829	9/1/15–8/31/16
Socialist Republic of Vietnam: Oil Country Tubular Goods A–552–817	9/1/15–8/31/16
Taiwan: Narrow Woven Ribbons with Woven Selvedge A–583–844	9/1/15–8/31/16
Taiwan: Oil Country Tubular Goods A–583–850	9/1/15–8/31/16
Taiwan: Raw Flexible Magnets A–583–842	9/1/15–8/31/16
Taiwan: Stainless Steel Wire Rod A–583–828	9/1/15–8/31/16
The People's Republic of China: Freshwater Crawfish Tailmeat A–570–848	9/1/15–8/31/16
The People's Republic of China: Foundry Coke A–570–862	9/1/15–8/31/16
The People's Republic of China: Kitchen Appliance Shelving and Racks A–570–941	9/1/15–8/31/16
The People's Republic of China: Lined Paper Products A–570–901	9/1/15–8/31/16
The People's Republic of China: Magnesia Carbon Bricks A–570–954	9/1/15–8/31/16
The People's Republic of China: Narrow Woven Ribbons with Woven Selvedge A–570–952	9/1/15–8/31/16
The People's Republic of China: New Pneumatic Off-The-Road Tires A–570–912	9/1/15–8/31/16
The People's Republic of China: Raw Flexible Magnets A–570–922	9/1/15–8/31/16
The People's Republic of China: Steel Concrete Reinforcing Bars A–570–860	9/1/15–8/31/16
Turkey: Oil Country Tubular Goods A–489–816	9/1/15–8/31/16
Ukraine: Solid Agricultural Grade Ammonium Nitrate A–823–810	9/1/15–8/31/16
Ukraine: Steel Concrete Reinforcing Bars A–823–809	9/1/15–8/31/16
Countervailing Duty Proceedings	
India: Lined Paper Products C–533–844	1/1/15–12/31/15
India: Oil Country Tubular Goods C–533–858	1/1/15–12/31/15
The People's Republic of China: Kitchen Appliance Shelving and Racks C–570–942	1/1/15–12/31/15
The People's Republic of China: Narrow Woven Ribbons with Woven Selvedge C–570–953	1/1/15–12/31/15
The People's Republic of China: New Pneumatic Off-The-Road Tires C–570–913	1/1/15–12/31/15
The People's Republic of China: Raw Flexible Magnets C–570–923	1/1/15–12/31/15
The People's Republic of China: Magnesia Carbon Bricks C–570–955	1/1/15–12/31/15
Turkey: Oil Country Tubular Goods C–489–817	1/1/15–12/31/15
Suspension agreements	
Argentina: Lemon Juice A–357–818	9/1/15–8/31/16

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

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[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[3] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'') on Enforcement and Compliance's ACCESS Web site at *http://access.trade.gov.*[4] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of September 2016. If the Department does not receive, by the last day of September 2016, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 25, 2016.

Christian Marsh,

Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–21659 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

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[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[4] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–872]

Finished Carbon Steel Flanges From India: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Emily Maloof at (202) 482–5649, or Davina Friedmann at (202) 482–0698, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2016, the Department of Commerce (the Department) initiated a countervailing duty investigation on finished carbon steel flanges from India.[1] Currently, the preliminary determination is due no later than September 23, 2016.

Postponement of the Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, if the petitioner makes a timely request for an extension in accordance with 19 CFR 351.205(e), section 703(c)(1)(A) of the Act allows the Department to postpone the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation.

On August 24, 2016, Petitioners[2] submitted a timely request pursuant to section 703(c)(1)(A) of the Act and 19 CFR 351.205(e) to postpone the preliminary determination.[3] In its request, Petitioners state: ''As the Department has not yet made a selection of mandatory respondents, Petitioners seek postponement of the preliminary determination to permit the Department sufficient time to receive, analyze, and comment on the questionnaire responses prior to the preliminary determination.''[4]

For the reasons stated above and because there are no compelling reasons to deny the request, the Department, in accordance with section 703(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination to no later than 124 days after the day on which the investigation was initiated. As a result, the Department will issue its preliminary determination no later than November 21, 2016. In accordance with section 735(a)(1) of the Act, the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

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[1] *See Finished Carbon Steel Flanges From India: Initiation of Countervailing Duty Investigation,* 81 FR 49625 (July 28, 2016).

[2] Weldbend Corporation (Weldbend) and Boltex Manufacturing Co., L.P. (Boltex) (collectively, Petitioners).

[3] *See* Letter from Petitioners, ''Re: Finished Carbon Steel Flanges from India: Request for the Postponement of the Preliminary Determination,'' dated August 24, 2016.

[4] *Id.,* at 1–2.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–21653 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Institute of Standards and Technology Performance Review Board Membership

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice lists the membership of the National Institute of Standards and Technology Performance Review Board (NIST PRB) and supersedes the list published on September 3, 2014.

DATES: The changes to the NIST PRB membership list announced in this notice are effective September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Didi Hanlein at the National Institute of Standards and Technology, (301) 975–3020 or by email at *desiree.hanlein@nist.gov.*

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology Performance Review Board (NIST PRB or Board) reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and ST–3104 employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

This notice lists the membership of the NIST PRB and supersedes the list published in the **Federal Register** on September 3, 2014 (79 FR 52304).

NIST PRB Members

Robert Fangmeyer (C) (alternate), Director, Baldrige Performance Excellence Program, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/18.

Richard Kayser, Jr. (C), Chief Safety Officer, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/16.

James St. Pierre (C) (alternate), Deputy Director, Information Technology Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/18.

Howard Harary (C), Director, Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/18.

Carroll Thomas (C) (alternate), Director, Hollings Manufacturing Extension Partnership Program, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/18.

Angela Simpson (NC), Deputy Assistant Secretary, National Telecommunications & Information Administration, Department of Commerce, Washington, DC 20230, Appointment Expires: 12/31/16.

Jennifer Ayers (C), Director, Office of the Secretary Financial Management, Department of Commerce, Washington, DC 20230, Appointment Expires: 12/31/18.

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2016–21538 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Membership of the National Oceanic and Atmospheric Administration Performance Review Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Membership of the NOAA Performance Review Board.

SUMMARY: NOAA announces the appointment of members who will serve on the NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) members and making written recommendations to the appointing authority on retention and compensation matters, including performance-based pay adjustments, awarding of bonuses, and reviewing recommendations for potential Presidential Rank Award nominees. The appointment of members to the NOAA PRB will be for a period of two (2) years.

DATES: *Effective Date:* The effective date of service of the nine appointees to the NOAA Performance Review Board is September 30, 2016.

FOR FURTHER INFORMATION CONTACT: Christine Nalli, Director, Executive Resources Division, Workforce Management Office, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–6357.

SUPPLEMENTARY INFORMATION: The names and positions of the members for the 2016 NOAA PRB are set forth below:

John D. Murphy, Chair: Chief Operating Officer National Weather Service

RDML Anita L. Lopez, Co-Chair: Deputy Director for Operations, OMAO and Deputy Director, NOAA Corps, Office of Marine and Aviation Operations

Jon Alexander: Deputy Director, Financial Management Systems, U.S. Department of Commerce

Gordon T. Alston: Director, Financial Reporting And Internal Controls, U.S. Department of Commerce

Christopher Cartwright: Chief Financial Officer/Chief Administrative Officer, National Ocean Service

Ciaran M. Clayton: Director of Communications, Office of the Under Secretary

Zachary G. Goldstein: Chief Information Officer and Director for High Performance Computing and Communications, Office of the Deputy Under Secretary

Irene Parker: Assistant Chief Information Officer, National Environmental Satellite Data and Information Service

Russell F. Smith, III: Deputy Assistant Secretary for International Fisheries, Office of the Deputy Under Secretary

Dated: August 19, 2016.

Kathryn D. Sullivan,

Under Secretary of Commerce for Oceans and Atmosphere.

[FR Doc. 2016–21478 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE869

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting and hearing.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its American Samoa Archipelago Fishery Ecosystem Plan (FEP) Advisory Panel (AP) and Hawaii Archipelago FEP AP to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The American Samoa Archipelago FEP AP will meet on Friday, September 23, 2016, between 4:30 p.m. and 6:30 p.m. and the Hawaii Archipelago FEP AP will meet on Thursday, September 29, 2016, between 9 a.m. and 11 a.m. All times listed are local island times. For specific times and agendas, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The American Samoa Archipelago FEP AP will meet at the Pacific Petroleum Conference Room Utulei Village, American Samoa. The Hawaii Archipelago FEP AP will meet at the Council Office, 1164 Bishop St., Suite 1400, Honolulu, HI 96813 and by teleconference. The teleconference will be conducted by telephone. The teleconference numbers are: U.S. toll-free: 1–888–482–3560 or International Access: +1 647 723–3959, and Access Code: 5228220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided in the agenda. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the American Samoa Archipelago FEP AP Meeting

Friday, September 23, 2016, 4:30 p.m.–6:30 p.m.

1. Welcome and Introductions
2. Outstanding Council Action Items
3. Council Issues
   A. 2017 U.S. Territory Bigeye Tuna Limits
   B. Council Coral Reef Projects
4. Update on Council Projects in American Samoa
   A. Data Collection Projects
   B. Fishery Development Projects
5. American Samoa FEP Community Activities
6. American Samoa FEP AP Issues
   A. Report of the Subpanels
   i. Island Fisheries Subpanel
   ii. Pelagic Fisheries Subpanel
   iii. Ecosystems and Habitat Subpanel
   iv. Indigenous Fishing Rights Subpanel
   B. Other Issues
7. Public Comment
8. Discussion and Recommendations
9. Other Business

Schedule and Agenda for the Hawaii Archipelago FEP AP Meeting

Thursday, September 29, 2016, 9 a.m.–11 a.m.

1. Welcome and Introductions
2. Outstanding Council Action Items
3. Council Issues
   A. 2017 U.S. Territory Bigeye Tuna Limits
   B. Council Coral Reef Projects
   C. Implementing the NWHI Monument Expansion
5. Hawaii FEP Community Activities
6. Hawaii FEP AP Issues
   A. Report of the Subpanels
   i. Island Fisheries Subpanel
   ii. Pelagic Fisheries Subpanel
   iii. Ecosystems and Habitat Subpanel
   iv. Indigenous Fishing Rights Subpanel
   B. Other Issues
7. Public Comment
8. Discussion and Recommendations
9. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 2, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–21613 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD990

Atlantic Highly Migratory Species; Essential Fish Habitat

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Draft Environmental Assessment; request for comments.

SUMMARY: NMFS announces the availability of a Draft Environmental Assessment for Amendment 10 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP).

NMFS finalized the most recent Atlantic HMS Essential Fish Habitat (EFH) 5-Year Review on July 1, 2015 and determined that updates to Atlantic HMS EFH were warranted. NMFS also determined that modifications to current Habitat Areas of Particular Concern (HAPCs) for bluefin tuna (*Thunnus thynnus*) and sandbar shark (*Carcharhimus plumbeus*) and the consideration of new HAPCs for lemon sharks (*Negaprion brevisostris*) and sand tiger sharks (*Carcharias taurus*) may be warranted.

The purpose of this Draft Amendment is to update Atlantic HMS EFH with recent information following the EFH delineation methodology established in Amendment 1 to the 2006 Consolidated Atlantic HMS FMP (Amendment 1); update and consider new HAPCs for Atlantic HMS based on recent information, as warranted; minimize to the extent practicable the adverse effects of fishing and non-fishing activities on EFH, and identify other actions to encourage the conservation and enhancement of EFH.

DATES: Written comments must be received by December 22, 2016.

ADDRESSES: Electronic copies of Draft Amendment 10 to the 2006 Consolidated HMS FMP may also be obtained on the internet at: *http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am10/index.html.*

You may submit comments on this document, identified by NOAA–NMFS–2016–0117, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov,* enter NOAA–NMFS–2016–0117 into the search box, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Jennifer Cudney, National Marine Fisheries Service, Highly Migratory Species Management Division, 263 13th Ave., Saint Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Jennifer Cudney or Randy Blankinship by phone at (727) 824–5399.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Fishery Conservation and Management Act ("Magnuson-Stevens Act") includes provisions concerning the identification and conservation of EFH (16 U.S.C. 1801 *et seq.*). EFH is defined in 50 CFR 600.10 as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." NMFS must identify and describe EFH, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH (§ 600.815(a)). Federal agencies that authorize, fund, or undertake actions that may adversely affect EFH must consult with NMFS, and NMFS must provide conservation recommendations to Federal and state agencies regarding any such actions. § 600.815(a)(9). Specifically, a consultation is required if a Federal agency has authorized, funded, or undertaken part or all of a proposed activity. For example, if a project proposed by a Federal or state agency or an individual requires a Federal permit, then the Federal agency authorizing the project through the issuance of a permit must consult with NMFS. A consultation is required if the action will "adversely" affect EFH. An adverse effect is defined as any impact that reduces quality and/or quantity of EFH. This includes direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to species and their habitat, and other ecosystem components, or reduction of the quality and/or quantity of EFH. Adverse effects may result from actions occurring within EFH or outside of EFH. If a federal agency determines that an action will not adversely affect EFH, no consultation is required. Private landowners and state agencies are not required to consult with NMFS.

In addition to identifying and describing EFH for managed fish species, a review of EFH must be completed every 5 years, and EFH provisions must be revised or amended, as warranted, based on the best available scientific information. NMFS announced the initiation of this review and solicited information for this review from the public in a **Federal Register** notice on March 24, 2014 (79 FR 15959). The initial public review/submission period ended on May 23, 2014. The Draft Atlantic HMS EFH 5-Year Review was made available on March 5, 2015 (80 FR 11981), and the public comment period ended on April 6, 2015. NMFS analyzed the information gathered through the EFH review process, and the Notice of Availability for the Final Atlantic HMS EFH 5-Year Review was published on July 1, 2015 (80 FR 37598) ("5-Year Review").

The 5-Year Review considered data regarding Atlantic HMS and their habitats that have become available since 2009 that were not included in EFH updates finalized in Amendment 1 (June 1, 2010, 75 FR 30484); Final Environmental Impact Statement for Amendment 3 to the 2006 Consolidated HMS FMP (Amendment 3) (June 1, 2010, 75 FR 30484); and the interpretive rule that described EFH for roundscale spearfish (September 22, 2010, 75 FR 57698). NMFS also determined in the 5-Year Review that the methodology used in Amendment 1 to delineate Atlantic HMS EFH was still the best approach to update EFH delineations in Amendment 10 because it infers habitat use and EFH from available point data, allows for the incorporation of multiple complex datasets into the analysis, is transparent, and is easily reproducible.

As a result of this review, NMFS determined that a revision of HMS EFH was warranted, and that an amendment to the 2006 Consolidated Atlantic HMS FMP would be developed as Amendment 10. In addition to the literature informing the 5-year Review and the subsequent proposed amendment, NMFS indicated that it would also incorporate all newly available data collected prior to January 1, 2015, to ensure that the best available data would be analyzed for Draft Amendment 10, and EFH geographic boundaries would be re-evaluated, even for species where there were limited or no new EFH data found in the literature review. Consultation with the Atlantic HMS Advisory Panel and the public did not yield additional suggestions for NMFS to consider on EFH delineation methods for Atlantic HMS during the EFH 5-Year Review process. Therefore, NMFS determined that the current HMS EFH delineation methodology could be used for the analyses in Draft Amendment 10.

Where appropriate, NMFS may designate HAPCs, which are intended to focus conservation efforts on localized areas within EFH that are vulnerable to degradation or are especially important ecologically for managed species. EFH regulatory guidelines encourage the Regional Fishery Management Councils and NMFS to identify HAPCs based on one or more of the following considerations (§ 600.815(a)(8)):

- The importance of the ecological function provided by the habitat;
- the extent to which the habitat is sensitive to human-induced environmental degradation;
- whether, and to what extent, development activities are, or will be, stressing the habitat type; and/or,
- the rarity of the habitat type.

After reviewing the new information that has become available for Atlantic HMS since the last updates to EFH were completed, and based on analyses of new data, NMFS is considering modifications to current HAPCs for bluefin tuna and sandbar sharks, and the creation of new HAPCs for lemon sharks and sand tiger sharks.

The purpose of the amendment would be to update EFH for Atlantic HMS with recent information following the EFH delineation methodology established in Amendment 1; minimize to the extent practicable the adverse effects of fishing and non-fishing activities on EFH; and identify other actions to encourage the conservation and enhancement of EFH. Specific actions would include the update and revision of existing HMS EFH, as necessary; modification of existing HAPCs or designation of new HAPCs for bluefin tuna, and sandbar, lemon, and sand tiger sharks, as necessary; and analysis of fishing and non-fishing impacts on EFH by considering environmental and management changes and new information since 2009.

Essential Fish Habitat Updates

Preferred Alternative 2 would update all Atlantic HMS EFH designations with new data collected since 2009, using the methodology established under Amendment 1. The incorporation of new information and data into EFH analyses, and subsequent adjustment of Atlantic HMS EFH, is expected to result in neutral cumulative and direct and indirect, short-term ecological, social, and economic impacts on the natural and human environment. This alternative is also expected to result in neutral long-term direct ecological, social, and economic impacts on the natural and human environment. The primary effect of updating Atlantic HMS EFH would be a change in the areas that are subject to consultation with NMFS under the EFH regulations. Updating

Atlantic HMS EFH ensures that any management consultations subsequently completed by the NMFS Office of Habitat Conservation, and resulting conservation recommendations, are based on the best available scientific information considering EFH designation. These future consultations through the Habitat Consultation process could, among other things, focus conservation efforts and avoid potential adverse impacts from Federal actions in areas designated as EFH. Thus, NMFS expects that long-term cumulative and indirect impacts of Alternative 2 would be minor and beneficial, as the consultation process and resulting conservation recommendations could reduce any potential adverse impacts to EFH from future federal actions. This could result in an overall positive conservation benefit.

Habitat Areas of Particular Concern (HAPCs)

The preferred alternatives concerning HAPCs would modify or create new HAPCs for several HMS.

Preferred alternative 3b would modify the current HAPC for the spawning, eggs, and larvae life stages for bluefin tuna. Specifically, NMFS would change the boundary of the existing bluefin tuna HAPC to encompass a larger area within the Gulf of Mexico. Recent literature suggests the potential for spawning bluefin tuna, eggs, and larvae to be concentrated in areas of the eastern Gulf of Mexico not encompassed by the current HAPC in response to variability in oceanographic conditions associated with the Loop Current, which moves through regions that are to the east of the current HAPC. NMFS would extend the HAPC in the Gulf of Mexico from its current extent eastward to the 82° West longitude line. The seaward boundary of the HAPC would continue to be the U.S. EEZ, while the shoreward extent of the HAPC would be restricted at the 100m bathymetric line per recommendations from the NMFS scientists.

Preferred alternative 4b would modify the current HAPC for sandbar shark along the Atlantic coast (specifically off the coast of the Outer Banks (NC), in Chesapeake Bay (VA), Delaware Bay (DE) and in the Mullica River-Great Bay system (NJ)). Modification would include changing the boundary of the existing HAPC to encompass different areas, consistent with the updated Atlantic HMS EFH designations. The current sandbar shark HAPC does not overlap with the currently-designated sandbar shark EFH as required by the Magnuson-Stevens Act implementing regulations, which specify FMPs "identify specific types or areas of habitat *within* EFH as habitat areas of particular concern" (emphasis added) (§ 600.815(a)(8)). Thus, NMFS is proposing to adjust the boundaries of the HAPC so that it is contained within the updated sandbar shark EFH. These changes include incorporation of additional area in Delaware Bay and Chesapeake Bay to reflect updated EFH designations, and adjustment of the HAPC around the Outer Banks of North Carolina. The updated areas identified as HAPCs are still considered to be important pupping and nursery grounds for sandbar shark. Delaware Bay and Chesapeake Bay are the largest nursery grounds for sandbar shark in the mid-Atlantic, and there is evidence of high inter-annual site fidelity for up to five years following birth to these nursery grounds.

Preferred Alternative 5b would designate a new HAPC for lemon sharks between Jupiter Inlet, FL, and Cape Canaveral, FL. Information analyzed in the 5-year review suggests that areas off south central and south eastern Florida may provide important nursery grounds and aggregation sites for multiple life stages. Aggregations of juvenile lemon sharks have appeared annually since 2003 within sheltered alongshore troughs and shallow open surf zones adjacent to Cape Canaveral from November through February. Adult lemon sharks have also been observed to annually form large aggregations off Jupiter Inlet between December and April. Geophysical and oceanographic conditions in the Cape Canaveral and Jupiter inlet regions may generate a climatic transition zone that may create a temperature barrier to northward and southward migration. A new HAPC would be created to encompass both areas and presumed migratory corridors between them and extend from shore to 12 km from the beach. These habitats occur near a heavily populated area of southeastern Florida, are subjected to military use and/or are easily accessible to the public, and both appear to be discrete aggregation areas for lemon sharks.

Preferred Alternative 6b would designate two new HAPCs for sand tiger sharks in Delaware Bay and in coastal Massachusetts. Recently, new research and information has become available which suggests that Delaware Bay might provide important seasonal (summertime) habitat for all life stages of sand tiger shark. The first HAPC would reflect the distribution of known data points in Delaware Bay. The second HAPC would be established in the Plymouth, Kingston, Duxbury (PKD) Bay system in coastal Massachusetts for juveniles and neonate sand tiger in the Cape Cod region. Tagging data suggest that tagged neonates and juveniles are seasonally distributed within the estuary (June through October); consistently used habitats for extended periods of time; and exhibited inter-annual site fidelity for the PKD Bay system.

NMFS expects that the short-term direct and indirect ecological, social and economic effects of revising current HAPCs for bluefin tuna spawning, eggs, and larvae in the Gulf of Mexico and for sandbar shark in the Mid-Atlantic, and creating new HAPCs for lemon sharks off southeastern Florida and for sand tiger sharks in Delaware Bay and in the PKD Bay system of Massachusetts would be neutral, as this process only designates habitat and there are no additional associated management measures under evaluation in Draft Amendment 10 for these HAPCs. Similarly, NMFS expects that the long-term direct ecological, social and economic effects of modifying and creating these HAPCs would be neutral. However, NMFS expects that the long-term indirect ecological, social, and economic effects of Alternatives 3b, 4b, 5b, and 6b would be minor and beneficial as a result of any future consultations as the Habitat Consultation process and resulting conservation recommendations could reduce any potential adverse impacts to HAPCs from future federal actions. This could result in an overall positive conservation benefit. These preferred alternatives would permit the incorporation and consideration of the best available scientific information in considering an HAPC designation for, among other things, purposes of focusing conservation efforts and avoiding adverse impacts through the Habitat Consultation process, inform the public of areas that could receive additional scrutiny from NMFS with regards to EFH impacts, and/or promote additional area-based research, as necessary.

Fishing and Non-Fishing Impacts and Conservation Recommendations

As analyzed in Amendment 1, since nearly all HMS EFH is comprised of open water habitat, all HMS fishing gears but bottom longline and shrimp trawl do not have an effect on EFH. For some shark species, EFH includes benthic habitat types such as mud or sandy bottom that might be affected by fishing gears. NMFS has determined that bottom tending gears such as bottom longline and shrimp trawls, which are the two gears most likely to impact EFH, have a minimal and only temporary effect on EFH. There is no new information that has become available since Amendment 1 to the 2006 Consolidated HMS FMP that would alter this conclusion. As a result, NMFS is not proposing any measures or alternatives to minimize fishing impacts on these habitats.

However, although adverse effects are not anticipated, NMFS has provided an example list of conservation recommendations in Chapter 5 of Draft Amendment 10 that could address shark bottom longline fishing impacts; these recommendations could apply to all areas designated as either EFH or HAPCs. This section is included to satisfy the EFH provisions concerning mandatory contents of FMPs, specifically the Conservation and Enhancement requirements at § 600.815(a)(6). This amendment similarly evaluates the potential adverse effects of fishing with all HMS gear types on designated and proposed EFH and HAPCs in Chapter 5 and provides conservation recommendations, as necessary.

Opportunities for Public Comment

NMFS will conduct public hearing conference calls and webinars to allow for opportunities for interested members of the public from all geographic areas to submit verbal comments on Draft Amendment 10. These will be announced at a later date and in the **Federal Register**. NMFS has also requested time on the meeting agendas of the relevant Regional Fishery Management Councils (*i.e.,* the Caribbean, Gulf of Mexico, South Atlantic, Mid-Atlantic, and New England Fishery Management Councils) to present information on Draft Amendment 10. Information on the date and time of those presentations will be provided on the appropriate council agendas.

The webinar presentation and conference call transcripts will be made available at this Web site: *http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am10/index.html.* Transcripts from Council meetings may be provided by the Councils on respective Web sites.

Public Hearing Code of Conduct

The public is reminded that NMFS expects participants at public hearings and council meetings to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (*e.g.,* all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; attendees may not interrupt one another; etc.). NMFS representative(s) will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not may be asked to leave the meeting.

Authority: 16 U.S.C. 971 *et seq.*, and 1801 *et seq.*

Dated: September 2, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–21621 Filed 9–7–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Board of Visitors of the U.S. Air Force Academy Notice of Meeting; Cancellation

AGENCY: U.S. Air Force Academy Board of Visitors, Department of Defense.

ACTION: Quarterly meeting notice; cancellation.

SUMMARY: On Friday, August 19, 2016, (81 FR 55454), the Department of Defense published in the **Federal Register**, a notice to announce the quarterly meeting of the United States Air Force Academy Board of Visitors on September 7 & 8, 2016. The meeting was cancelled due to last-minute circumstances indicating there would not be a quorum for the meeting.

FOR FURTHER INFORMATION CONTACT: The next scheduled USAFA BoV meeting has not been established, but will be published in the **Federal Register** at least 15 days prior to the meeting.

For additional information or to attend this BoV meeting, contact Major James Kuchta, Accessions and Training Division, AF/A1PT, 1040 Air Force Pentagon, Washington, DC 20330, (703) 695–4066, *James.L.Kuchta.mil@mail.mil.*

Meeting Announcement: The Department of Defense had to cancel the United States Air Force Academy Board of Visitors meeting on September 7 & 8, 2016 because last-minute circumstances indicated there would not be a quorum for the meeting. Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Board of Visitors U.S. Air Force Academy was unable to provide public notification of its cancellation of its previously announced meeting on September 7th and 8th, 2016, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Henry Williams,

Acting Air Force Federal Register Officer.

[FR Doc. 2016–21624 Filed 9–7–16; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Vietnam War Commemoration Advisory Committee; Notice of Federal Advisory Committee Meeting

AGENCY: DoD.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Vietnam War Commemoration Advisory Committee. This meeting is open to the public.

DATES: The public meeting of the Vietnam War Commemoration Advisory Committee (hereafter referred to as "the Committee") will be held on Monday, September 19, 2016. The meeting will begin at 1:00 p.m. and end at 4:30 p.m.

ADDRESSES: U.S. Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: *Committee's Designated Federal Officer:* The committee's Designated Federal Officer is Mr. Michael Gable, Vietnam War Commemoration Advisory Committee, 241 18th Street South, Arlington, VA 22202, *michael.l.gable.civ@mail.mil,* 703–697–4811. For meeting information please contact Mr. Michael Gable, *michael.l.gable.civ@mail.mil,* 703–697–4811; Mr. Mark Franklin, *mark.r.franklin.civ@mail.mil,* 703–697–4849; or Ms. Scherry Chewning, *scherry.l.chewning.civ@mail.mil,* 703–697–4908.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Vietnam War Commemoration Advisory Committee was unable to provide public notification of its meeting of September 19, 2016, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory

Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement. This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: At this meeting, the Committee will convene and receive a presentation on the Certificate of Honor Program. The committee will also receive a briefing from the Communications Working Group on recommendations to expand our national voice. Following this briefing, the Committee will deliberate and vote on those recommendations. The mission of the Committee is to provide the Secretary of Defense, through the Deputy Chief Management Officer, independent advice and recommendations regarding major events and priority of efforts during the commemorative program for the 50th Anniversary of the Vietnam War, in order to achieve the objectives for the Commemorative Program.

Availability of Materials for the Meeting: A copy of the agenda for the Committee may be obtained from the Committee's Web site at *http://vietnamwar50th.com.* Copies will also be available at the meeting.

Meeting Agenda

1:00 p.m.–1:10 p.m. Convene with Committee Chairman Remarks

1:10 p.m.–4:30 p.m. Committee Meeting/Agenda items
- Certificate of Honor Program
- Communications Working Group Recommendations Briefing
- Committee Members' Deliberation and vote on Communications Working Group Recommendations
- Closing remarks

4:30 p.m. Adjourn

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. All members of the public who wish to attend the public meeting must contact Mr. Michael Gable, Mr. Mark Franklin or Ms. Scherry Chewning at the number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Mr. Michael Gable, Mr. Mark Franklin or Ms. Scherry Chewning at the number listed in the **FOR FURTHER INFORMATION CONTACT** section at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Committee about its mission and topics pertaining to this public meeting.

Written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Committee for their consideration prior to the meeting. Written comments should be submitted via email to the address for the DFO given in the **FOR FURTHER INFORMATION CONTACT** section in either Adobe Acrobat or Microsoft Word format. Please note that since the Committee operates under the provisions of the Federal Advisory Committee Act, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Committee's Web site.

Dated: September 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–21580 Filed 9–7–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (Judicial Proceedings Panel); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Judicial Proceedings Since Fiscal Year 2012 Amendments Panel ("the Judicial Proceedings Panel" or "the Panel"). The meeting is open to the public.

DATES: A meeting of the Judicial Proceedings Panel will be held on Friday, September 23, 2016. The public session will begin at 9:00 a.m. and end at 4:30 p.m.

ADDRESSES: Judicial Proceedings Panel, One Liberty Center, 875 N. Randolph Street, Conference Room, 14th Floor, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Carson, Judicial Proceedings Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203. Email: *whs.pentagon.em.mbx.judicial-panel@mail.mil.* Phone: (703) 693–3849. Web site: *http://jpp.whs.mil.*

SUPPLEMENTARY INFORMATION: This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: In Section 576(a)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), as amended, Congress tasked the Judicial Proceedings Panel to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice (UCMJ) involving adult sexual assault and related offenses since the amendments made to the UCMJ by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81; 125 Stat. 1404), for the purpose of developing recommendations for improvements to such proceedings. At this meeting, the Panel will receive testimony from retired military appellate judges and from active duty military appellate counsel on their perspectives regarding sexual assault victims' appellate rights.

Agenda

—8:30–9:00 Administrative Work (41 CFR 102–3.160, not subject to notice & open meeting requirements)

—9:00–9:15 Welcome and Introduction (public meeting begins)

—9:15–12:00 Military Judges' Perspectives on Victims' Appellate Rights
  - —Judge James Baker, Former Chief Judge, United States Court of Appeals for the Armed Forces
  - —Rear Admiral (Retired) Christian Reismeier, Former Chief Judge of the Navy
  - —Colonel (Retired) William Orr, Former Chief Judge, Air Force Court of Criminal Appeals
  - —Colonel (Retired) Denise R. Lind, Former Senior Appellate Judge, United States Army Court of Criminal Appeals

—12:00–1:00 Lunch

—1:00–2:30 Service Defense Appellate Divisions' Perspectives on Victims' Appellate Rights
  - —Army Defense Appellate Division

Counsel
- —Air Force Defense Appellate Division Counsel
- —Navy-Marine Corps Defense Appellate Division Counsel
- —Coast Guard Defense Appellate Division Counsel

—2:30–4:00 Service Government Appellate Divisions' Perspectives on Victims' Appellate Rights
- —Army Government Appellate Division Counsel
- —Air Force Government Appellate Division Counsel
- —Navy-Marine Corps Government Appellate Division Counsel
- —Coast Guard Government Appellate Division Counsel

—4:00–4:30 Public Comment

—4:30 Meeting Adjourned

Availability of Materials for the Meeting: A copy of the September 23, 2016 public meeting agenda and any updates or changes to the agenda, including individual speakers not identified at the time of this notice, as well as other materials provided to Panel members for use at the public meeting, may be obtained at the meeting or from the Panel's Web site at *http://jpp.whs.mil.*

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. Visitors are required to sign in at the One Liberty Center security desk and must leave a government-issued photo identification on file while in the building. Department of Defense Common Access Card (CAC) holders who do not have authorized access to One Liberty Center must provide an alternate form of government-issued photo identification to leave on file with security while in the building. All visitors must pass through a metal detection security screening.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by the JPP at least five (5) business days prior to the meeting date so that they may be made available to the Judicial Proceedings Panel for their consideration prior to the meeting. Written comments should be submitted via email to the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Judicial Proceedings Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement pertaining to the agenda for that public meeting, a written statement must be submitted as above along with a request to provide an oral statement. After reviewing the written comments and the oral statement, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during the public comment portion of this meeting. Determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the Designated Federal Officer and will depend on time available and relevance to the Panel's activities for that meeting, and on a first-come basis. When approved in advance, oral presentations by members of the public will be permitted from 4:00 p.m. to 4:30 p.m. on September 23, 2016 in front of the Panel members.

Committee's Designated Federal Officer: The Panel's Designated Federal Officer is Ms. Maria Fried, Department of Defense, Office of the General Counsel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: September 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–21611 Filed 9–7–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Draft Supplemental Environmental Impact Statement for the Dam Safety Modification Report, Bluestone Dam, Hinton, Summers County, WV

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Supplemental Draft Environmental Impact Statement—public and agency comment period.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), Huntington District prepared a Supplemental Draft Environmental Impact Statement (SDEIS) to disclose potential impacts to the natural, physical, and human environment resulting from modifications to Bluestone Dam. The original EIS was published in 1998 and a Record of Decision (ROD) was signed in 1999 concluding the NEPA process allowing the Corps to initiate implementation of the Bluestone Dam Safety Assurance (DSA) Project. When completed, the current modifications under construction will strengthen the dam's stability and allow for increased discharge capacity through the use of hydropower penstocks substantially reducing risk. However, physical modeling and expert analysis conducted during project construction indicated the downstream bedrock is vulnerable to an unacceptable degree of erosion during high flow events. The Corps has also recognized potential for unacceptable erosion associated with overtopping of areas of the dam not designed to be overtopped. After a full consideration of alternatives to achieve acceptable risk levels, this SDEIS recommends implementing modifications to the existing stilling basin to prevent scour that could result in spillway instability and thus dam failure. Modification may include alteration to the existing stilling basin to include installation of a concrete apron, larger baffles, and would also include non-structural risk management measures. This SDEIS also addresses the prolonged construction duration of modification features described in the original EIS and ROD.

DATES: The review period will be open from September 1, 2016 to October 17, 2016.

ADDRESSES: Send written comments and suggestions concerning this proposed project to Rebecca Rutherford, Chief, Environmental Analysis Section, Planning Branch, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701–2070. Telephone: 304–399–5924. Electronic mail: *BluestoneDamDSA@usace.army.mil.* Requests to be placed on the mailing list should also be sent to this address.

SUPPLEMENTARY INFORMATION:

1. *Authority:* Bluestone Dam and Reservoir was authorized by Executive

Order (E.O.) 7183 in 1935 and the Flood Control Acts of 1936 and 1938 for the purposes of flood control, low flow augmentation, and hydroelectric power development. The purposes were later expanded to include recreational activities under the Flood Control Act of 1944 and fish and wildlife enhancement under the Fish and Wildlife Coordination Act (FWCA) of 1958.

2. *Background:* a. Guidance for this study is provided in USACE Engineer Regulation (ER) 1110–2–1156 (October 2011). This guidance details agency policy and procedures for the study and implementation process addressing dam safety issues.

b. Bluestone Lake is a multipurpose component of the Kanawha River basin system which provides for flood control, recreation, power development, low flow augmentation, and fish and wildlife enhancement. The project began operation in 1949 and helps control a 4,565 square mile drainage area.

c. The ROD, signed in 1999, completed the NEPA process for the DSA project permitting the Huntington District to begin detailed design and subsequent construction of the recommended alternative which included a 13 foot cantilever wall on top of the dam, an additional concrete monolith on the east abutment, a floodgate closure across WV Rt. 20, removable closures at each end of the spillway, high strength anchors placed into the dam itself, massive concrete blocks placed against the downstream face of the dam, and a pavement for scour protection downstream of the hydropower penstocks. The majority of the ongoing construction on these measures will continue through the year 2019. The ROD for this work anticipated construction would be completed 2005.

d. Physical modeling and expert analysis conducted during project construction has shown the downstream bedrock is vulnerable to erosion during high flow events as a result of deficiencies with the current stilling basin configuration. This potential erosion creates an unacceptable level of risk according to guidelines established in ER 1110–2–1156, under which this study is being conducted.

e. The SDEIS and Dam Safety Modification report (DSMR) will consider the structural integrity of the dam, its ability to accommodate flood waters as well as transportation, noise, terrestrial, aquatic, economic, environmental justice and cultural resource issues associated with the performance of the dam. The SDEIS and DSMR will recommend any modifications necessary to ensure the long-term safe performance of the structure as originally intended.

f. Modifications to meet current acceptable risk guidelines per ER 1110–2–1156 may include, modification of the existing stilling basin, modification of other dam components, construction of an alternative/auxiliary stilling basin, construction of an alternative/auxiliary spillway and non-structural measures or other actions to prevent overtopping. The No Action alternative will also be considered. As required by NEPA and Corps planning guidance, the No Action alternative will form a benchmark from which alternatives are evaluated and compared.

3. *Public Participation:* a. The SDEIS will be made available to the public in the affected area for forty-five (45) days for review and comment. A Notice of Availability will be advertised in affected area newspapers informing the general public about the SDEIS public review period. The SDEIS and draft ROD can be viewed at: *http://www.lrh.usace.army.mil/Missions/PublicReview.aspx.* Copies of the SDEIS and draft ROD may be obtained by contacting the Huntington District Office of the Corps of Engineers at (304) 399–5924 (See **ADDRESSES**). All persons and organizations that have an interest in the Bluestone Dam Project are urged to participate in this SDEIS review and comment period. Upon the close of the comment period, USACE will consider all comments and if necessary conduct further analysis.

Additionally, the Corps will conduct public meetings to gain input from interested agencies, organizations, and the general public concerning the content, issues, and impacts of the SDEIS, a separate Notice of Intent will be published in the **Federal Register** for this action. Prior to the meeting, a public notice will be distributed to agencies, organizations, and the general public, informing interested parties of the date and location for the public meeting. The Corps invites full public participation to promote open communication and better decision-making.

4. *Schedule:* The Draft Supplemental Environmental Impact Statement is scheduled to be released for public review and comment on or about September 1, 2016. The Final Report and Final Supplemental EIS are tentatively scheduled to be completed in May 2017.

Rebecca A. Rutherford,

Chief, Environmental Analysis Section, Planning Branch.

[FR Doc. 2016–21570 Filed 9–7–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the Proposed Lower Elkhorn Basin Levee Setback Project, Yolo County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Sacramento District, as the lead agency under the National Environmental Policy Act (NEPA), and the California Department of Water Resources (DWR), as the lead agency under the California Environmental Quality Act (CEQA), will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Lower Elkhorn Setback Levee Project. DWR is the project proponent and may be referred to as the Applicant or Requester.

The EIS/EIR will analyze DWR's proposed action to implement a flood risk management project in the Lower Elkhorn Basin in Yolo County, California. Because the proposed action would alter Federal levees, permission from USACE is required under Section 14 of the Rivers and Harbors Act (Section 408) (33 U.S.C. 408). The proposed action would also affect waters of the United States and require a permit from USACE under Section 404 of the Clean Water Act (33 U.S.C. 1344).

DATES: Submit written comments by October 7, 2016.

ADDRESSES: Written comments and suggestions concerning the scope and content of the environmental information may be submitted to Mr. Tyler Stalker, email at *spk-pao@usace.army.mil;* or surface mail at U.S. Army Corps of Engineers, Sacramento District, Attn: Public Affairs Office (CESPK–PAO), 1325 J Street, Sacramento, CA 95814–2922. Requests to be placed on the electronic or surface mail notification lists should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Ms. Tanis Toland at (916) 557–6717, or by email at *tanis.j.toland@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Proposed Action.* The proposed Lower Elkhorn Basin Levee Setback Project would include levee setbacks to widen portions of the Yolo and Sacramento Bypasses to increase conveyance capacity and reduce flood risk. The project would be part of a series of proposed flood risk

management improvements contemplated under DWR's Central Valley Flood Protection Plan and its related Sacramento Basin-Wide Feasibility Report. The project is located in Yolo County and is bounded by the Sacramento River on the east, the Tule Canal and Yolo Bypass on the west, the Sacramento Bypass on the south, and Interstate 5 on the north. The project would include the following elements: (1) Widening the Yolo Bypass by constructing a setback levee east of the Tule Canal in the Lower Elkhorn Basin, (2) widening the Sacramento Bypass by constructing a setback levee north of the existing levee, and (3) implementing improvements in the Lower Elkhorn Basin and Sacramento Bypass to mitigate project impacts. Widening of the Sacramento Bypass, per number (2) of the Proposed Action, is also a recommended feature of the American River Common Features GRR, for which a general reevaluation was completed in 2016, although it is not yet congressionally authorized. The proposed Lower Elkhorn Basin Levee Setback Project is not intended to duplicate this recommended feature, rather it offers DWR a potential alternative means to construct this key feature should the project not be authorized prior to USACE's decision on DWR's request under Section 408.

2. *Alternatives.* A number of project alternatives, including the no action alternative and the Requester's/Applicant's preferred alternative will be evaluated in the EIS/EIR in accordance with NEPA (33 CFR part 230 (USACE NEPA Regulations) and 33 CFR part 325, Appendix B (NEPA Implementation Procedures for USACE Regulatory Projects).

3. *Scoping Process.*

a. A public scoping meeting will be held on Thursday, September 15, 2016, from 4:00 p.m. to 7:00 p.m., West Sacramento Civic Center, 1110 West Capitol Avenue, West Sacramento, CA 95691 to present information to the public and to receive comments from the public on the project and the scope of the environmental analysis. Affected Federal, State, regional, and local agencies; Native American Tribes; other interested private organizations; and the general public are invited to participate.

b. The EIS/EIR will analyze the environmental effects of construction, operations, and maintenance of the project. Potentially significant issues to be analyzed in depth include loss of waters of the United States (including wetlands), cultural resources, biological resources, special status species, air quality, hydrology and water quality, land use, Prime and Unique Farmlands, noise, traffic, aesthetics, utilities and service systems, and socioeconomic effects.

c. USACE will consult with the State Historic Preservation Officer and with Native American Tribes to comply with the National Historic Preservation Act, and with the U.S. Fish and Wildlife Service and National Marine Fisheries Service to comply with the Endangered Species Act. USACE will also coordinate with the U.S. Fish and Wildlife Service to comply with the Fish and Wildlife Coordination Act.

d. A 45-day NEPA public review period will be provided for all interested parties, individuals, and agencies to review and comment on the draft EIS/EIR. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the draft EIS/EIR circulation.

4. *Availability.* The draft EIS/EIR is scheduled to be available for public review and comment in November 2017.

Dated: August 28, 2016.

David G. Ray,

Colonel, U.S. Army, District Commander.

[FR Doc. 2016–21578 Filed 9–7–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Inland Waterways Users Board Meeting Notice

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's Web site at *http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx.*

DATES: The Army Corps of Engineers, Inland Waterways Users Board will meet from 9:00 a.m. to 1:00 p.m. on October 5, 2016. Public registration will begin at 8:15 a.m.

ADDRESSES: The Board meeting will be conducted at the Holiday Inn Hotel Chicago—Tinley Park—Convention Center, 18501 Convention Center Drive, Tinley Park, IL 60477, 708–444–1100.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–8083; and by email at *Kenneth.E.Lichtman@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

Proposed Agenda: At this meeting the agenda will include the status of funding for inland navigation projects and studies budgeted in FY 2017; the status of the Inland Waterways Trust Fund and comparison of revenues; the status of the Olmsted Locks and Dam Project, and the Locks and Dams 2, 3, and 4 on the Monongahela River Project; update of Kentucky Lock and Chickamauga Lock economics information; basic Economic Analysis by the Corps; and status of the Inner Harbor Navigation Canal (IHNC) Lock General Re-evaluation Report.

Availability of Materials for the Meeting. A copy of the agenda or any updates to the agenda for the October 5, 2016 meeting. The final version will be provided at the meeting. All materials will be posted to the Web site after the meeting.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.1 65, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin at 8:15 a.m. on the day of the meeting. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number at registration. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

Special Accommodations: The meeting venue is fully handicap accessible, with wheelchair access. Individuals requiring special accommodations to access the public meeting or seeking additional information about public access procedures, should contact Mr. Pointon, the committee DFO, or Mr. Lichtman, the ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to Mr. Pointon, the committee DFO, or Mr. Lichtman, the committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–21569 Filed 9–7–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.421B.]

Applications for New Awards; Rehabilitation Services Administration—Disability Innovation Fund—Transition Work-Based Learning Model Demonstrations; Correction

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice; correction.

SUMMARY: On August 1, 2016, we published in the **Federal Register** (81 FR 50485) a notice inviting applications (NIA) for new awards for fiscal year (FY) 2016 for the Rehabilitation Services Administration—Disability Innovation Fund—Transition Work-Based Learning Model Demonstrations. The NIA incorrectly cites "34 CFR part 386," which implements the Rehabilitation Long-term Training Program, as applicable regulations. Those regulations, do not apply to this NIA. This document corrects the error.

FOR FURTHER INFORMATION CONTACT: Roseann Ashby, U.S. Department of Education, 400 Maryland Avenue SW., Room 5057, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7258 or by email: *Roseann.Ashby@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This document deletes the reference to 34 CFR 386 under "Applicable Regulations" because these regulations do not apply to this notice. All other requirements and conditions stated in the NIA remain the same.

Corrections

In the **Federal Register** of August 1, 2016 (81 FR 50485), on page 50487, in the middle column, we revise the section "Applicable Regulations" to read as follows: "*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Department and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The NFP for this competition, published elsewhere in this issue of the **Federal Register**."

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format

(PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: September 1, 2016.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–21608 Filed 9–7–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0097]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Subpart E—Verification of Student Aid Application Information

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 7, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0097. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–343, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Subpart E—Verification of Student Aid Application Information.

OMB Control Number: 1845–0041.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals or Households; Private Sector.

Total Estimated Number of Annual Responses: 31,005,627.

Total Estimated Number of Annual Burden Hours: 3,751,254.

Abstract: This request is for a revision of the information collection supporting the policies and reporting requirements contained in subpart E of part 668—Verification and Updating of Student Aid Application Information. Sections 668.53, 668.54, 668.55, 668.56, 668.57, 668.59 and 668.61 contain information collection requirements (OMB control number 1845–0041). This subpart governs the verification and updating of the Free Application for Federal Student Aid used to calculate an applicant's Expected Family Contribution for purposes of determining an applicant's need for student financial assistance under title IV of Higher Education Act of 1965, as amended. The collection of this documentation helps ensure that students (and parents in the case of PLUS loans) receive the correct amount of title IV program assistance by providing accurate information to calculate an applicant's expected family contribution.

Dated: September 2, 2016.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–21565 Filed 9–7–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 16–108–LNG]

Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC & FLNG Liquefaction 3, LLC; Application for Amendment to Long-Term, Multi-Contract Authorizations To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations for a Period of 20 Years

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application, filed on August 3, 2016 (Application), by Freeport LNG Expansion, L.P. (Freeport Expansion), FLNG Liquefaction, LLC (FLIQ1), FLNG Liquefaction 2, LLC (FLIQ2) and FLNG Liquefaction 3, LLC (FLIQ3) (collectively FLEX) to amend a liquefied natural gas (LNG) export authorization permitting exports to any country that has, or in the future develops, the capacity to import LNG and with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas and with which trade is not prohibited by U.S. law or policy (non-FTA countries). Specifically, FLEX requests DOE to amend the LNG export authorization issued in DOE/FE Order Nos. 3357, 3357–A, 3357–B and 3357–C (collectively Order No. 3357) in order to allow FLEX to engage in additional long-term, multi-contract exports of domestically produced LNG in a volume up to the equivalent of 125 billion cubic feet per year (Bcf/yr) of natural gas (0.34 Bcf/day) for a period of 20 years. This additional volume of LNG is incremental to the equivalent of 146 Bcf/yr of natural gas (0.4 Bcf/day), which is the volume of LNG that FLEX is currently authorized to export pursuant to Order No. 3357, and to the equivalent of 511 Bcf/yr of natural gas

(1.4 Bcf/day), which is the volume of LNG that FLEX is currently authorized to export pursuant to DOE/FE Order Nos. 3282, 3282–A, 3282–B, and 3282–C. FLEX requests that all other terms and conditions of Order No. 3357 apply to the additional 125 Bcf/yr of LNG export authority proposed in the Application. Through the Amendment, FLEX seeks to align the authorized export volumes of LNG to non-FTA countries from the Freeport Liquefaction Project[1] (the Liquefaction Project) with the optimized increased production capacity design of the facilities approved by the Federal Energy Regulatory Commission (FERC) in FERC Docket No. CP15–518–000 of 782 Bcf/yr (2.14 Bcf/day). The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in FLEX's Application, posted on the DOE/FE Web site at: *http://www.energy.gov/sites/prod/files/2016/08/f33/16-108-LNGapp.pdf* Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, November 7, 2016.

ADDRESSES: *Electronic Filing by email: fergas@hq.doe.gov.*

Regular Mail: U.S. Department of Energy (FE–34) Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Beverly Howard, or Larine Moore, U.S. Department of Energy (FE–34) Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9387; (202) 586–9578.

Edward Myers, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–3397.

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, and U.S. energy security. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy, international considerations, and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the following two studies examining the cumulative impacts of exporting domestically produced LNG:

- *Effect of Increased Levels of Liquefied Natural Gas on U.S. Energy Markets,* conducted by the U.S. Energy Information Administration upon DOE's request (2014 EIA LNG Export Study);[2] and
- *The Macroeconomic Impact of Increasing U.S. LNG Exports,* conducted jointly by the Center for Energy Studies at Rice University's Baker Institute for Public Policy and Oxford Economics, on behalf of DOE (2015 LNG Export Study).[3]

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014);[4] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014).[5]

Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 16–108–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 16–108–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

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[1] The Liquefaction Project is currently under construction at the Freeport LNG Terminal on Quintana Island, Texas. The Federal Energy Regulatory Commission ("Commission" or "FERC") authorized the siting, construction and operation of the Liquefaction Project in 2014. *See Freeport LNG Development, L.P. et al.,* 148 FERC ¶ 61,076 (2014), *reh'g denied,* 149 FERC ¶ 61,119 (2014).

[2] The 2014 EIA LNG Export Study, published on Oct. 29, 2014, is available at: *https://www.eia.gov/analysis/requests/fe/.*

[3] The 2015 LNG Export Study, dated Oct. 29, 2015, is available at: *http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf.*

[4] The Addendum and related documents are available at *http://energy.gov/fe/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[5] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on September 1, 2016.

John A. Anderson,

Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.

[FR Doc. 2016–21579 Filed 9–7–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2497–000]

CXA Sundevil II, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CXA Sundevil II, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 19, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21534 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–1192–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) Rate Filing: Neg Rate—BBPC Release to Macquarie Energy 792007 to be effective 9/1/2016.
Filed Date: 8/29/16.
Accession Number: 20160829–5124.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1193–000.
Applicants: Northwest Pipeline LLC.
Description: Section 4(d) Rate Filing: 2016 Winter Fuel Filing to be effective 10/1/2016.
Filed Date: 8/29/16.
Accession Number: 20160829–5184.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1194–000.
Applicants: Equitrans, L.P.
Description: Compliance filing Notice Regarding Non-Jurisdictional Gathering Facilities (F–1157 H–516).
Filed Date: 8/30/16.
Accession Number: 20160830–5065.
Comments Due: 5 p.m. ET 9/12/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 30, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21532 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF16–6–000]

Western Area Power Administration; Notice of Filing

Take notice that on August 26, 2016, Western Area Power Administration submitted a tariff filing per: DSW,NTS/AS, WAPA175–20160823 to be effective 10/1/2016.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on September 26, 2016.

Dated: September 1, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21561 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1257–006; ER10–1258–006; ER11–3117–002.

Applicants: Wabash Valley Power Association, Inc., Wabash Valley Energy Marketing, Inc., Lively Grove Energy Partners, LLC.

Description: Supplement to July 18, 2016 Notice of Change of Status of Wabash Valley Power Association, et al.

Filed Date: 8/29/16.

Accession Number: 20160829–5321.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER10–1777–009; ER15–718–004.

Applicants: Sundevil Power Holdings, LLC, West Valley Power, LLC.

Description: Notification of Change in Status of the Wayzata Entities, et al.

Filed Date: 8/29/16.

Accession Number: 20160829–5320.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER15–1499–003.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: City of Independence Stated Rate Compliance Filing to be effective 6/1/2015.

Filed Date: 8/29/16.

Accession Number: 20160829–5275.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER16–1830–001.

Applicants: AEP Texas Central Company.

Description: Tariff Amendment: TCC-Rio Grande EC TSA Deficiency Response to be effective 5/6/2016.

Filed Date: 8/29/16.

Accession Number: 20160829–5309.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER16–1831–001.

Applicants: AEP Texas North Company.

Description: Tariff Amendment: TNC-Rio Grande EC TSA Concurrence Deficiency Response to be effective 5/6/2016.

Filed Date: 8/29/16.

Accession Number: 20160829–5305.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER16–2185–001.

Applicants: Westar Energy, Inc.

Description: Tariff Amendment: Amendment, Cost-Based Tariff Filing to be effective 3/1/2014.

Filed Date: 8/29/16.

Accession Number: 20160829–5312.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER16–2372–002.

Applicants: ITC Midwest LLC.

Description: Tariff Amendment: Second Errata to Master Joint Use Agreement to be effective 10/4/2016.

Filed Date: 8/29/16.

Accession Number: 20160829–5250.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER16–2506–000.

Applicants: Oliver Wind III, LLC.

Description: Baseline eTariff Filing: Oliver Wind III, LLC Application for Market-Based Rates to be effective 11/1/2016.

Filed Date: 8/29/16.

Accession Number: 20160829–5311.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER16–2507–000.

Applicants: NorthWestern Corporation.

Description: Section 205(d) Rate Filing: SA 243 10th Rev—NITSA with CHS Inc. to be effective 8/30/2016.

Filed Date: 8/29/16.

Accession Number: 20160829–5313.

Comments Due: 5 p.m. ET 9/19/16.

Docket Numbers: ER16–2508–000.

Applicants: H.Q. Energy Services (U.S.) Inc.

Description: Section 205(d) Rate Filing: HQUS MBR Tariff Update Filing to be effective 8/31/2016.

Filed Date: 8/30/16.

Accession Number: 20160830–5143.

Comments Due: 5 p.m. ET 9/20/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 30, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21529 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC16–11–000]

Commission Information Collection Activities (FERC Forms 6 and 580); Comment Request

AGENCY: Federal Energy Regulatory Commission.

ACTION: Comment request.

SUMMARY: The Commission previously issued a Notice in the **Federal Register** (81 FR 38169, 6/13/2016) requesting public comments on FERC Forms 6, 580, 1, 1–F, and 3–Q. The Commission received no comments regarding FERC Forms 6 and 580. This 30-day notice only solicits comments on FERC Forms 6 and 580. FERC received comments regarding FERC Forms 1, 1–F, and 3–Q and will address those comments in a subsequent notice also in Docket No. IC16–11–000.

In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting these information collections (FERC Form 6 [Annual Report of Oil Pipeline Companies] and FERC Form 580 [Interrogatory on Fuel and Energy Purchase Practices]) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the FERC Forms 6 and 580 are due by October 11, 2016.

ADDRESSES: Comments filed with OMB, identified by the OMB Control Nos. 1902–0022 (FERC Form 6) or 1902–0137 (FERC–580) should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov,* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC16–11–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Type of Request: Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. There are some non-substantive corrections being made to the instructions (such as reflecting the current estimated burden hours and updating addresses). Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FERC Form No. 6, Annual Report of Oil Pipeline Companies [1]

OMB Control No.: 1902–0022.

Abstract: Under the Interstate Commerce Act (ICA), (Section 20, 54 Stat. 916), the Interstate Commerce Commission (ICC) was authorized and empowered to make investigations and to collect and record data to the extent considered necessary or useful for the purpose of carrying out the provisions of the ICA.

In 1977, the Department of Energy Organization Act transferred to the Commission from the ICC the responsibility to regulate oil pipeline companies. In accordance with the transfer of authority, the Commission was delegated the responsibility to require oil pipelines to file annual reports of information necessary for the Commission to exercise its statutory responsibilities.[2] The transfer included the Form P, the predecessor to the FERC Form No. 6, Annual Report of Oil Pipeline Companies (Form 6).[3]

To reduce burden on industry, the FERC Form No. 6 has three tiers of reporting requirements:

1. Each oil pipeline carrier whose annual jurisdictional operating revenues has been $500,000 or more for each of the three previous calendar years must file FERC Form No. 6. Oil pipeline carriers submitting a complete FERC Form No. 6 must submit FERC Form 6–Q.[4] Newly established entities must use projected data to determine whether FERC Form No. 6 must be filed.

2. Oil pipeline carriers exempt from filing FERC Form No. 6 whose annual jurisdictional operating revenues have been more than $350,000 but less than $500,000 for each of the three previous calendar years must prepare and file page 301, "Operating Revenue Accounts (Account 600), and page 700, "Annual cost of Service Based Analysis Schedule," of FERC Form No. 6. When submitting pages 301 and 700, each exempt oil pipeline carrier must include page 1 of the FERC Form No. 6, the Identification and Attestation schedules.

3. Oil pipeline carriers exempt from filing FERC Form No. 6 and page 301 and whose annual jurisdictional operating revenues were $350,000 or less for each of the three previous calendar years must prepare and file page 700, "Annual Cost of Service Based Analysis Schedule," of FERC Form No. 6.

The Commission uses the FERC Form No. 6 information in:

- Implementation of its financial audits and programs, the continuous review of the financial condition of regulated companies, and the assessment of energy markets
- various rate proceedings and economic analyses
- background research for use in litigation
- programs relating to the administration of the ICA
- computation of annual charges, which are required by Section 3401 of the Omnibus Budget Reconciliation Act of 1986.

Type of Respondent: Oil Pipelines.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden[5] and cost[6] for the FERC Form No. 6 information collection as follows.

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[1] The renewal request for the FERC Form No. 6 in Docket No. IC16–11 is for the current form, with no change to the reporting requirements. None of the comments received in Docket No. IC16–11 pertained to FERC Form 6. The FERC Form No. 6 is also part of the Forms Refresh effort (Docket No. AD15–11), which is a separate activity and not addressed in this Notice. In addition, there is a pending Docket No. RM15–19 which is a separate activity and is not addressed in this Notice.

[2] Section 402(b) of the Department of Energy Organization Act (DOE Act), 42 U.S.C. 7172 provides that; "[t]here are hereby transferred to, and vested in, the Commission all functions and authority of the Interstate Commerce Commission or any officer or component of such Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or established the valuation of any such pipeline."

[3] The ICC developed the Form P to collect information on an annual basis to enable it to carry out its regulation of oil pipeline companies under the Interstate Commerce Act. A comprehensive review of the reporting requirements for oil pipeline companies was performed on September 21, 1982, when the Commission issued Order 260 revising the former ICC Form P, "Annual Report of Carriers by Pipeline" and re-designating it as FERC Form No. 6, "Annual Report of Oil Pipeline Companies".

[4] FERC Form 6–Q is covered separately and is approved by OMB under OMB Control No. 1902–0206. It is not a subject of this Notice; FERC Form 6–Q is being addressed separately in Docket No. IC16–7–000.

FERC Form No. 6 information collection as follows.

FERC FORM NO. 6, ANNUAL REPORT OF OIL PIPELINE COMPANIES

Number of respondents[7] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
198	1	198	161 hrs.; $11,995	31,878 hrs.; $2,375,010	$11,995

The reporting requirements are not changing. However we are making non-substantive corrections to update the number of burden hours and addresses in the instructions, as detailed in Attachment A.

FERC Form No. 580, Interrogatory on Fuel and Energy Purchase Practices

OMB Control No.: 1902–0137.

Abstract: FERC Form No. 580 is collected in even numbered years. The Public Utility Regulatory Policies Act (PURPA)[8] amended the Federal Power Act (FPA) and directed the Commission to make comprehensive biennial reviews of certain matters related to automatic adjustment clauses (AACs) in wholesale rate schedules used by public utilities subject to the Commission's jurisdiction. Specifically, the Commission is required to examine whether the clauses effectively provide the incentives for efficient use of resources and whether the clauses reflect only those costs that are either "subject to periodic fluctuations" or "not susceptible to precise determinations" in rate cases prior to the time the costs are incurred.

The Commission is also required to review the practices of each public utility under AACs "to insure efficient use of resources under such clauses."[9] In response to the PURPA directive, the Commission (Docket Number IN79–6–000) established an investigation. Beginning in 1982, the Commission collected "Interrogatory on Fuel and Energy Purchase Practices" data every other year.

Based on filer comments in response to the new electronic form used in the 2014 collections, FERC recommends the following changes to the instructions. FERC is not changing the requirements of the information collection.

Question 2a

—Revise Question 2a columns as follows:

From	To
Docket number under which rate schedule containing AAC through which costs were passed during 2012 and/or 2013 was accepted for filing by FERC. Was rate schedule superseded or abandoned during 2012–2013? If so, provide dates.	Docket number under which rate schedule containing AAC through which costs were passed during 2014 and/or 2015 was accepted for filing by FERC. Was rate schedule superseded or abandoned during 2014–2015? If so, provide dates.

Question 2b

—Revise the paragraph under Question 2b to read:

From	To
If any of the Utility's wholesale rate and/or service agreements containing an AAC listed in Question 2a, that was used during 2012 and/or 2013, was filed with the Commission before January 1, 1990, attach an electronic copy of it with this filing. List the documents you are submitting below. Note: Once this information is submitted electronically in a text-searchable format it will not be necessary to submit it in future Form 580 filings. See: *http://www.ferc.gov/docs-filing/elibrary/accept-file-formats.asp* for listing of Commission accepted document types.	If any of the Utility's wholesale rate and/or service agreements containing an AAC listed in Question 2a, that was used during 2014 and/or 2015, was filed with the Commission before January 1, 1990, attach an electronic copy of it with this filing. List the documents you are submitting below. Note: Once this information is submitted electronically in a text-searchable format it will not be necessary to submit it in future Form 580 filings. See: *http://www.ferc.gov/docs-filing/elibrary/accept-file-formats.asp* for listing of Commission accepted document types.

Question 3

—Revise the paragraph under Question 3 to read:

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[5] The burden associated with the one-time re-filing of Page 700 data for Years 2009–2011 has been completed and is not included.

[6] The cost is based on FERC's 2016 average cost (salary plus benefits) of $74.50/hour. The Commission staff believes that the industry's level and skill set is comparable to FERC.

[7] The number of respondents (and responses) is subject to change because of normal fluctuations in the industry (*e.g.*, companies merging, splitting, entering into and exiting the industry).

[8] Enacted November 8, 1978.

[9] The review requirement is set forth in two paragraphs of Section 208 of PURPA, 49 Stat. 851; 16 U.S.C. 824d.

From	To
If during the 2012–2013 period, the Utility had any contracts or agreements for the purchase of either energy or capacity under which all or any portion of the purchase costs were passed through a fuel adjustment clause (FAC), for each purchase from a PURPA Qualifying Facility (QF) or Independent Power Producer (IPP) provide the information requested in the non-shaded columns of the table below. Provide the information separately for each reporting year 2012 and 2013. Do not report purchased power where none of the costs were recovered through an FAC. For each purchase where costs were flowed through an FAC, fill-in the non-shaded columns and either "Only energy charges" or "The total cost of the purchase of economic power" columns, whichever apply.	If during the 2014–2015 period, the Utility had any contracts or agreements for the purchase of either energy or capacity under which all or any portion of the purchase costs were passed through a fuel adjustment clause (FAC), for each purchase from a PURPA Qualifying Facility (QF) or Independent Power Producer (IPP) provide the information requested in the non-shaded columns of the table below. Provide the information separately for each reporting year 2014 and 2015. Do not report purchased power where none of the costs were recovered through an FAC. For each purchase where costs were flowed through an FAC, fill-in the non-shaded columns and either "Only energy charges" or "The total cost of the purchase of economic power" columns, whichever apply.

Question 4a

—Revise Question 4a columns as follows:

From	To
If emission allowance costs were incurred by the Utility in 2012 and/or 2013 and were recovered through a FAC, provide the following information.	If emission allowance costs were incurred by the Utility in 2014 and/or 2015 and were recovered through a FAC, provide the following information.
Dollar value of emission allowance cost passed through a FAC: 2012|2013.	Dollar value of emission allowance cost passed through a FAC: 2014|2015.

Question 5

—Revise the paragraph under Question 5 as follows:

From	To
Provide the information requested below regarding the Utility's fuel procurement policies and practices in place during 2012 and/or 2013 for fuels whose costs were subject to 18 CFR 35.14. Note: Responses to this question may be filed as Privileged. To do so, skip this question now and answer it via the Fuel Procurement Policies and Practices Privileged Addendum provided. Otherwise, answer it here and your responses will be made public.	Provide the information requested below regarding the Utility's fuel procurement policies and practices in place during 2014 and/or 2015 for fuels whose costs were subject to 18 CFR 35.14. Note: Responses to this question may be filed as Privileged. To do so, skip this question now and answer it via the Fuel Procurement Policies and Practices Privileged Addendum provided. Otherwise, answer it here and your responses will be made public.

Question 6

—Revise the paragraph under Question 6 as follows:

From	To
For each fuel supply contract, of longer than one year in duration, in force at any time during 2012 and/or 2013, where costs were subject to 18 CFR 35.14, (including informal agreements with associated companies), provide the requested information. Report the information individually for each contract, for each calendar year. [No response to any part of Question 6 for fuel oil no. 2 is necessary.] Report all fuels consumed for electric power generation and thermal energy associated with the production of electricity. Information for only coal, natural gas, and oil should be reported.	For each fuel supply contract, of longer than one year in duration, in force at any time during 2014 and/or 2015, where costs were subject to 18 CFR 35.14, (including informal agreements with associated companies), provide the requested information. Report the information individually for each contract, for each calendar year. [No response to any part of Question 6 for fuel oil no. 2 is necessary.] Report all fuels consumed for electric power generation and thermal energy associated with the production of electricity. Information for only coal, natural gas, and oil should be reported.

Question 7

—Revise the paragraph under Question 6 as follows:

From	To
For each fuel supply contract, including informal agreements with associated or affiliated companies in force at any time during 2012 or 2013 WHERE CONTRACT SHORTFALL COSTS WERE PASSED THROUGH an FAC subject to 18 CFR 35.14, provide for each contract separately the information requested below. Only report the information requested for shortfalls that occurred under your contracts during reporting years 2012 or 2013 and that are not under dispute *i.e.*, parties agree there was indeed a shortfall.	For each fuel supply contract, including informal agreements with associated or affiliated companies in force at any time during 2014 or 2015 WHERE CONTRACT SHORTFALL COSTS WERE PASSED THROUGH an FAC subject to 18 CFR 35.14, provide for each contract separately the information requested below. Only report the information requested for shortfalls that occurred under your contracts during reporting years 2014 or 2015 and that are not under dispute *i.e.*, parties agree there was indeed a shortfall.

Question 8

—Revise the paragraph under Question 8 as follows:

From	To
For each fuel supply contract that was bought-out or bought-down, including informal agreements with associated or affiliated companies in force at any time during 2012 or 2013 WHERE CONTRACT BUY-OUT AND/OR BUY-DOWN COSTS WERE PASSED THROUGH an FAC subject to 18 CFR 35.14, provide for each contract separately the information requested below. Only report the information requested for contract buy-downs and buy-outs that occurred under your contracts during reporting years 2012 or 2013 and that are not under dispute *i.e.*, parties agree there was indeed a shortfall.	For each fuel supply contract that was bought-out or bought-down, including informal agreements with associated or affiliated companies in force at any time during 2014 or 2015 WHERE CONTRACT BUY-OUT AND/OR BUY-DOWN COSTS WERE PASSED THROUGH an FAC subject to 18 CFR 35.14, provide for each contract separately the information requested below. Only report the information requested for contract buy-downs and buy-outs that occurred under your contracts during reporting years 2014 or 2015 and that are not under dispute *i.e.*, parties agree there was indeed a shortfall.

Access to the Revised Materials: A copy of the revised form (which includes instructions and glossary) and desk reference will be publically available in Docket No. IC16–11–000, but they will not be published in the **Federal Register**.[10] Interested parties can see these materials electronically as part of this notice in FERC's eLibrary (*http://www.ferc.gov/docs-filing/elibrary.asp*) by searching Docket No. IC16–11–000.

Type of Respondent: Large electric public utilities within FERC jurisdiction.

Estimate of Annual Burden:[11] The Commission estimates the annual[12] public reporting burden for the information collection as:

FERC FORM 580

[Interrogatory on fuel and energy purchase practices]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response[13] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Annual cost per respondent ($) (5) ÷ (1)
Respondents with FACs	37	0.5	18.5	103 hrs.; $7,673.50.	1,905.5 hrs.; $141,959.75.	3,836.75
Respondents with AACs, but no FACs.	10	0.5	5	20 hrs.; $1,490	100 hrs.; $7,450	745
Respondents with no AACs nor FACs.	35	0.5	17.5	2 hrs.; $149	35 hrs.; $2,607.50.	74.50
Total			41		2,040.5 hrs.; $152,017.25.	

Dated: September 1, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21567 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

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[10] The revised form is intended to illustrate superficial changes only and does not include all the interactive features of the actual form.

[11] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[12] The FERC Form 580 data is collected on a biennial basis. In order to represent the burden appropriately, the "Annual Number of Responses per Respondent" is assigned a figure of 0.5. This figure means that one response per respondent is received on average for each two year period. The "Total Annual Burden Hours & Total Annual Cost" figures are all annual figures based on the biennial frequency assumption.

[13] The estimates for cost per response are derived using the 2016 FERC average salary plus benefits of $154,647/year (or $74.50/hour). Commission staff finds that the work done for this information collection is typically done by wage categories similar to those at FERC.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–496–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Application

Take notice that on August 19, 2016, Tennessee Gas Pipeline Company, L.L.C. (Tennessee), 1001 Louisiana Street, Suite 1000, Houston, Texas 77002, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations seeking authorization to construct, and operate certain compression facilities located in Texas (Lone Star Project), all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

The Lone Star Project includes the construction, and operation of the following facilities in the state of Texas: (1) Construction of a new 10,915 horsepower (hp) compressor station 3A to be located in San Patricio County, Texas; and (2) construction of a new 10,500 hp compressor station 11A to be located in Jackson County, Texas. The proposed facilities will be located on Tennessee's 100 Line, between Tennessee's existing Compressor Station 1 and Compressor Station 17, in San Patricio and Jackson counties, Texas. Tennessee states that the facilities will provide firm transportation service of up to 300,000 dekatherms per day to Corpus Christi Liquefaction, LLC. The estimated cost of the project is $131.9 million.

Any questions regarding this application should be directed to John Griffin, Assistant General Counsel, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Suite 1000, Houston, Texas 77002, or call (713) 420–3624, or by email *John_Griffin2@kindermorgan.com,* or Ellen Eastham, Senior Regulatory Analyst II, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Suite 1000, Houston, Texas 77002, or call (713) 420–4344, or by email *Ellen_Eastham@kindermorgan.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on September 22, 2016.

Dated: September 1, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21566 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–95–291; EL00–98–263]

San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Notice of Compliance Filing

Take notice that on August 29, 2016, the California Independent System Operator Corporation submitted additional information related to May 4, 2016 Refund Rerun Compliance Filing pursuant to the Federal Energy Regulatory Commission's (Commission) July 15, 2011 Order Accepting

Compliance Filings and Providing Guidance.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 23, 2016.

Dated: August 31, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21416 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2492–000]

Phoenix Energy New England, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Phoenix Energy New England, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 19, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21528 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2496–000]

CXA Sundevil I, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CXA Sundevil I, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 19, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

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[1] *San Diego Gas & Elec. Co.* v. *Sellers of Energy and Ancillary Servs.,* 136 FERC ¶ 61,036 (2011).

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21533 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–1204–000.
Applicants: MoGas Pipeline LLC.
Description: Section 4(d) Rate Filing: MoGas Annual Charge Adjustment to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5119.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1205–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Section 4(d) Rate Filing: Fuel Filing on 8–31–16 to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5127.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1206–000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing Gulf Markets Early In-service CP15–90 Compliance Filing to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5135.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1207–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: Quarterly Fuel Adjustment Filing of MarkWest Pioneer, L.L.C. under RP16–1207.
Filed Date: 8/31/16.
Accession Number: 20160831–5149.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1208–000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing 2016 Operational Entitlements Filing.
Filed Date: 8/31/16.
Accession Number: 20160831–5152.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1209–000.
Applicants: Dominion Transmission, Inc.
Description: Section 4(d) Rate Filing: DTI—Monroe to Cornwell Project (CP15–7) Transport. Service & Negotiated Rate to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5155.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1210–000.
Applicants: WBI Energy Transmission, Inc.
Description: Section 4(d) Rate Filing: 2016 Semi-annual Fuel & Electric Power Reimbursement to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5185.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1211–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Section 4(d) Rate Filing: Negotiated Rate Agreement Update (APS Sept 2016) to be effective 9/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5219.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1212–000.
Applicants: Kern River Gas Transmission Company.
Description: Section 4(d) Rate Filing: 2016 September Negotiated Rates to be effective 9/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5220.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1213–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Operational Purchase and Sales Report of Colorado Interstate Gas Company, L.L.C. under RP16–1213.
Filed Date: 8/31/16.
Accession Number: 20160831–5238.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1214–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Petrohawk 41455 to Texla 47028) to be effective 9/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5246.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1215–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Section 4(d) Rate Filing: FL&U Update to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5265.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1216–000.
Applicants: Rockies Express Pipeline LLC.
Description: Section 4(d) Rate Filing: Neg Rate 2016–08–31 CP to be effective 9/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5304.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1217–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) Rate Filing: Allocation, Expansion, and Reservation of Capacity to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5352.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1218–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Section 4(d) Rate Filing: Update to Non Conforming Agreements Filing to be effective 10/1/2016.
Filed Date: 8/31/16.
Accession Number: 20160831–5359.
Comments Due: 5 p.m. ET 9/12/16.

Docket Numbers: RP16–1219–000.
Applicants: Texas Gas Transmission, LLC.
Description: Section 4(d) Rate Filing: Interactive Auctions for Cost-Based Storage Capacity to be effective 10/1/2016.
Filed Date: 9/1/16.
Accession Number: 20160901–5035.
Comments Due: 5 p.m. ET 9/13/16.

Docket Numbers: RP16–1220–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) Rate Filing: Negotiated Capacity Release Agreements—9/1/2016 to be effective 9/1/2016.
Filed Date: 9/1/16.
Accession Number: 20160901–5046.
Comments Due: 5 p.m. ET 9/13/16.

Docket Numbers: RP16–1221–000.
Applicants: Dominion Carolina Gas Transmission, LLC.
Description: Compliance filing DCGT—2016 Penalty Revenue Crediting Report.
Filed Date: 9/1/16.
Accession Number: 20160901–5048.
Comments Due: 5 p.m. ET 9/13/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21535 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the New York Independent System Operator, Inc. (NYISO):

NYISO Electric System Planning Working Group Meeting

September 13, 2016, 2:30 p.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic_espwg&directory=2016-09-13.*

NYISO Business Issues Committee Meeting

September 13, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic&directory=2016-09-13.*

NYISO Operating Committee Meeting

September 19, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=oc&directory=2016-09-19.*

NYISO Electric System Planning Working Group Meeting

September 26, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic_espwg&directory=2016-09-26.*

NYISO Management Committee Meeting

September 28, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=mc&directory=2016-09-28.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

New York Independent System Operator, Inc., Docket No. ER13–102.

New York Independent System Operator, Inc., Docket No. ER15–2059.

New York Transco, LLC, Docket No. ER15–572.

New York Independent System Operator, Inc., Docket No. ER16–966.

New York Independent System Operator, Inc., Docket No. ER16–1968.

Boundless Energy NE., LLC, CityGreen Transmission, Inc., and Miller Bros. v. *New York Independent System Operator, Inc.,* Docket No. EL16–84.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: September 1, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21562 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR16–24–000]

Caliber Bear Den Interconnect LLC; Notice of Petition for Declaratory Order

Take notice that on August 31, 2016, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2015), Caliber Bear Den Interconnect LLC ("Caliber"), filed a petition for a declaratory order concerning Caliber's proposed new interstate crude petroleum pipeline project, the Caliber Bear Den Interconnection Pipeline. Caliber request that the Commission declare that the elements of the proposed project are lawful, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on September 30, 2016.

Dated: September 1, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21563 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2751–005.
Applicants: Xcel Energy Southwest Transmission Company, LLC.
Description: Xcel Energy Southwest Transmission Company, LLC submits the compliance electric rate filing.
Filed Date: 8/26/16.
Accession Number: 20160829–0001.
Comments Due: 5 p.m. ET 9/16/16.

Docket Numbers: ER16–2290–000.
Applicants: Spartan Renewable Energy, Inc.
Description: Supplement to July 26, 2016 Spartan Renewable Energy, Inc. tariff filing.
Filed Date: 8/24/16.
Accession Number: 20160824–5271.
Comments Due: 5 p.m. ET 9/14/16.

Docket Numbers: ER16–2374–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2016–08–30_Correction to Order 827 Compliance (Attachment X) Filing to be effective 9/21/2016.
Filed Date: 8/30/16.
Accession Number: 20160830–5219.
Comments Due: 5 p.m. ET 9/20/16.

Docket Numbers: ER16–2509–000.
Applicants: Rutherford Farm, LLC.
Description: Baseline eTariff Filing: Application and Initial Baseline Filing of Rutherford Farm, LLC to be effective 10/29/2016.
Filed Date: 8/30/16.
Accession Number: 20160830–5217.
Comments Due: 5 p.m. ET 9/20/16.

Docket Numbers: ER16–2509–001.
Applicants: Rutherford Farm, LLC.
Description: Tariff Amendment: Amendment to Application and Initial Baseline Tariff Filing of Rutherford Farm to be effective 10/29/2016.
Filed Date: 8/30/16.
Accession Number: 20160830–5243.
Comments Due: 5 p.m. ET 9/20/16.

Docket Numbers: ER16–2510–000.
Applicants: ITC Midwest LLC.
Description: Section 205(d) Rate Filing: Filing of Joint Use Pole Agreement to be effective 10/31/2016.
Filed Date: 8/30/16.
Accession Number: 20160830–5222.
Comments Due: 5 p.m. ET 9/20/16.

Docket Numbers: ER16–2511–000.
Applicants: Stanford University Power LLC.
Description: Baseline eTariff Filing: Stanford University Power LLC MBR Baseline Filing to be effective 9/29/2016.
Filed Date: 8/30/16.
Accession Number: 20160830–5234.
Comments Due: 5 p.m. ET 9/20/16.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF16–1175–000.
Applicants: Strom Energy, Inc.
Description: Form 556 of Strom Energy, Inc. [LNG Power] under QF16–1175.
Filed Date: 8/30/16.
Accession Number: 20160830–5187.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 30, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21530 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR16–68–000.
Applicants: Southern California Gas Company.
Description: Tariff filing per 284.123(b)(1) + (g): So Cal Gas—Rate Change Filing to be effective 8/1/2016; Filing Type: 1300.
Filed Date: 8/23/2016.
Accession Number: 201608235108 http://elibrary.ferc.gov/idmws/doc_info.asp?accession_num=20160415-5222.
Comments Due: 5 p.m. ET 9/13/16.
284.123(g) Protests Due: 5 p.m. ET 10/24/16.

Docket Numbers: RP16–1185–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Section 4(d) Rate Filing: Fuel Retention Rates—Winter 2016 to be effective 10/1/2016.
Filed Date: 8/24/16.
Accession Number: 20160824–5103.
Comments Due: 5 p.m. ET 9/6/16.

Docket Numbers: RP16–1186–000.
Applicants: Empire Pipeline, Inc.
Description: Section 4(d) Rate Filing: Tuscarora Lateral Project—Petition to Amend to be effective 9/1/2016.
Filed Date: 8/25/16.
Accession Number: 20160825–5135.
Comments Due: 5 p.m. ET 9/6/16.

Docket Numbers: RP16–1187–000.
Applicants: Mississippi Hub, LLC.
Description: Section 4(d) Rate Filing: Mississippi Hub, LLC Proposed Tariff Revisions to be effective 10/1/2016.
Filed Date: 8/25/16.
Accession Number: 20160825–5154.
Comments Due: 5 p.m. ET 9/6/16.

Docket Numbers: RP16–1188–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) Rate Filing: Neg Rate—ConEd Release to Enhanced Energy 791998 to be effective 9/1/2016.
Filed Date: 8/26/16.
Accession Number: 20160826–5080.
Comments Due: 5 p.m. ET 9/7/16.

Docket Numbers: RP16–1189–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) Rate Filing: 20160826 PRA Correction Filing to be effective 11/1/2016.
Filed Date: 8/26/16.
Accession Number: 20160826–5111.
Comments Due: 5 p.m. ET 9/7/16.

Docket Numbers: RP16–1190–000.
Applicants: Dominion Transmission, Inc.
Description: Compliance filing DTI—August 26, 2016 Service Agreement Termination Notice.
Filed Date: 8/26/16.
Accession Number: 20160826–5202.
Comments Due: 5 p.m. ET 9/7/16.

Docket Numbers: RP16–1191–000.
Applicants: Transcontinental Gas Pipe Line Company.

Description: Section 4(d) Rate Filing: 2016 ACA Tracker Filing—GSS, LSS, SS–2 & S–2 to be effective 10/1/2016.

Filed Date: 8/29/16.

Accession Number: 20160829–5063.

Comments Due: 5 p.m. ET 9/12/16.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP16–943–002.

Applicants: Vector Pipeline L.P.

Description: Compliance filing Negotiated Rate RP16–943 Supplement to Compliance Filing to be effective 6/1/2016.

Filed Date: 8/25/16.

Accession Number: 20160825–5134.

Comments Due: 5 p.m. ET 9/6/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–21531 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–95–291; EL00–98–263]

San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Notice of Compliance Filing

Take notice that on August 29, 2016, the California Power Exchange Corporation submitted additional information related to May 5, 2016 Refund Rerun Compliance Filing pursuant to the Federal Energy Regulatory Commission's (Commission) July 15, 2011 Order Accepting Compliance Filings and Providing Guidance.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 23, 2016.

Dated: August 31, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21415 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–495–000]

Kinetica Energy Express, LLC; Notice of Request Under Blanket Authorization

Take notice that on August 19, 2016 Kinetica Energy Express, LLC (Kinetica), 1001 McKinney, Suite 900, Houston, Texas 77002, filed a prior notice request pursuant to sections 157.205 and 157.216(b) of the Commission's regulations under the Natural Gas Act (NGA). Kinetica seeks authorization to abandon two inactive supply laterals, designated as Line Nos. 509A–1100 and 509A–1200, and Meter I–1229, located in federal waters offshore Louisiana, Vermilion Area. Kinetica is seeking abandonment authority under its blanket certificate issued in Docket No. CP16–495–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Jennifer N. Waters, counsel for Kinetica, Crowell & Moring LLP, 1001 Pennsylvania Avenue NW., Washington, DC 20004, telephone (202) 624–2715, FAX (202) 628–5116], or Diane Dundee, President and CEO of Kinetica, telephone (713) 228–3347 or FAX (281) 200–0747.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

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[1] *San Diego Gas & Elec. Co.* v. *Sellers of Energy and Ancillary Servs.,* 136 FERC ¶ 61,036 (2011).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the "e-Filing" link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: September 1, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–21564 Filed 9–7–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2015–0056; FRL–9951–97–OW]

National Advisory Council for Environmental Policy and Technology: Assumable Waters Subcommittee; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Federal advisory subcommittee meetings.

SUMMARY: Consistent with the Federal Advisory Committee Act, Public Law 92463, EPA is giving notice of an upcoming public meeting of the Assumable Waters Subcommittee convened under the National Advisory Council for Environmental Policy and Technology (NACEPT). The Assumable Waters Subcommittee will provide advice and recommendations as to how the EPA can best clarify assumable waters for dredge and fill permit programs pursuant to Clean Water Act section 404(g)(1). The EPA is undertaking this effort to support states and tribes that wish to assume the program. Similar to the parent NACEPT, the subcommittee represents a diversity of interests from academia, industry, non-governmental organizations, and local, State, and tribal governments.

Meeting agendas and materials will be posted at *www.epa.gov/cwa-404/assumable-waters-sub-committee.*

DATES: The Assumable Waters Subcommittee will hold a two-day public meeting on: September 28th and 29th, from 1 p.m. to 4 p.m. EDT, at this Web site: *https://cbuilding.zoom.us/j/5305689032.*

ADDRESSES: This is virtual meeting which can be accessed at this Web site: *https://cbuilding.zoom.us/j/5305689032* and via phone: (408) 638–0968 (US Toll) or (646) 558–8656 (US Toll). The meeting ID is 530 568 9032

FOR FURTHER INFORMATION CONTACT: Jacob B. Strickler, Acting Designated Federal Officer, via email at: *assumablewaters@epa.gov,* by phone: (202) 564–4692, or via postal service at: U.S. Environmental Protection Agency (MC–2388A), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or to provide written comments to the Assumable Waters Subcommittee should be sent to Jacob B. Strickler via email at: *assumablewaters@epa.gov* by September 20th, 2016. The meetings are open to the public, with limited phone lines available on a first-come, first-served basis. Members of the public wishing to attend should contact Jacob B. Strickler via email at: *assumablewaters@epa.gov* or by phone at: (202) 564–4692 by September 20th, 2016, so we can ensure adequate phone lines are available. On September 28th, 2016, public comments will heard beginning at 3:00 p.m. until 3:30 p.m. EDT or until all comments have been heard.

*Meeting Access:*The agency will strive to reasonably accommodate individuals with disabilities. Information regarding accessibility and/or accommodations for individuals with disabilities should be directed to Jacob B. Strickler at the email address or phone number listed above. To ensure adequate time for processing, please make requests for accommodations at least 8 days prior to the meeting.

Dated: August 31, 2016.

David S. Evans,

Acting Director, Office of Wetlands, Oceans, and Watersheds.

[FR Doc. 2016–21666 Filed 9–7–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Regional Docket No. II–2016–01; FRL–9952–01–Region 2]

Petition To Reopen State Operating Permit; NY; Seneca Energy II, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: Pursuant to Clean Air Act (CAA) section 505(b)(2) and 40 CFR 70.8(d), the Environmental Protection Agency (EPA) Administrator signed an Order, dated July 29, 2016, denying a petition filed by Finger Lakes Zero Waste Coalition, Inc., dated February 8, 2016, asking the EPA to "reopen" the Title V operating permit, Permit No. 8–3244–00040/00002, issued by the New York State Department of Environmental Conservation (DEC) to Seneca Energy II, LLC (Seneca) relating to the Ontario County Landfill Gas-to-

Energy Facility in western New York. The process by which the EPA may initiate the reopening process for such a title V permit is explained at 40 CFR 70.7(g)(1).

DATES: Any such petition for review of this Order filed under the CAA must be received by November 7, 2016 pursuant to section 307 of the CAA.

ADDRESSES: You may review copies of the final Order, the petitions, and other supporting information during normal business hours at EPA Region 2, 290 Broadway, New York, New York. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Steven Riva, Chief, Permitting Section, Air Programs Branch, Clean Air and Sustainability Division, EPA, Region 2, 290 Broadway, 25th Floor, New York, New York 10007, telephone (212) 637–4074, email address: *riva.steven@epa.gov,* or the above EPA Region 2 address.

SUPPLEMENTARY INFORMATION: In the context of a petition to reopen, the threshold determination is the Administrator's "find[ing] that cause exists to terminate, modify, or revoke and reissue a permit" pursuant to 40 CFR 70.7(f). If, and only if, the Administrator makes that finding, the EPA "will notify" the relevant entities to initiate the reopening process. In light of the discretionary threshold finding applicable to reopening for cause by the EPA, a petition to reopen a title V permit should present evidence (*e.g.,* factual information, citation, analysis) explaining why there is cause to reopen the title V permit pursuant to 40 CFR 70.7(f). In this instance, the Petitioner has not presented sufficient evidence that the title V permit fails to comply with the CAA, or that it should be reopened for cause pursuant to 40 CFR 70.7(f).

Dated: August 29, 2016.

Catherine McCabe,

Acting Regional Administrator, Region 2.

[FR Doc. 2016–21614 Filed 9–7–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2016–0178; FRL–9952–00–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA Application Materials for the Water Infrastructure Finance and Innovation Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "EPA Application Materials for the Water Infrastructure Finance and Innovation Act" (EPA ICR No. 2549.01, OMB Control No. 2040–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** (81 FR 32327) on May 23, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 11, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2016–0178, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Karen Fligger, Water Infrastructure Division, Office of Wastewater Management, 4201–T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–2992; email address: *fligger.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The collection of information is necessary in order to receive applications for credit assistance pursuant to section 5024 of the Water Infrastructure Finance and Innovation Act (WIFIA) of 2014, 33 U.S.C. 3903. The purpose of the WIFIA program is to provide Federal credit assistance in the form of direct loans and loan guarantees to eligible water infrastructure projects.

WIFIA requires that an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information, as the Administrator *may require* to receive assistance under WIFIA. In order to satisfy these requirements, EPA must collect an application from applicants seeking funding. The Letters of Interest and Applications collected from loan applicants through this solicitation will be used by EPA, the WIFIA program office, and an evaluation team to determine whether each proposed project meets creditworthiness and other Federal requirements to receive WIFIA credit assistance.

Form Numbers: None.

Respondents/affected entities: The Letters of Interest and Applications collected from loan applicants through this solicitation will be used by EPA to evaluate requests for credit assistance under the WIFIA eligibility requirements and selection criteria.

Respondent's obligation to respond: Required to obtain credit assistance pursuant to section 5024 of WIFIA, 33 U.S.C. 3903.

Estimated number of respondents: 25 per year (total).

Frequency of response: one per respondent.

Total estimated burden: 1,500 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,064,594 (per year), includes $3,005,000 non-labor costs.

Spencer Clark,

Acting Director, Regulatory Support Division.

[FR Doc. 2016–21592 Filed 9–7–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2016–0243; FRL–9951–55–OAR]

Proposed Information Collection Request; Comment Request; Information Collection Request for Plywood and Composite Wood Products National Emission Standards for Hazardous Air Pollutants (NESHAP) Residual Risk and Technology Review (RTR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), "Information Collection Request for Plywood and Composite Wood Products National Emission Standards for Hazardous Air Pollutants (NESHAP) Residual Risk and Technology Review (RTR)" (EPA ICR No. 2552.01, OMB Control No. 2060—NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 7, 2016.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2016–0243, online using *http://www.regulations.gov* (our preferred method), by email to *A-and-R-docket@epa.gov,* or by mail to EPA Docket Center (EPA/DC), Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: John Bradfield, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–03), Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541–3062; fax number: (919) 541–3470; email address: *bradfield.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1742. The telephone number for the public reading room is 202–566–1744. For additional information about the EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and its practical feasibility and the assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA is evaluating the use of the Compliance and Emissions Data Reporting Interface (CEDRI) to collect ICR data for this category. Using CEDRI can both reduce the ICR collection burden through the use of on-line information technology and reduce reporting burdens in the future for affected facilities in the category. The EPA is interested in receiving comments on the use of this data collection approach.

The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR is being conducted by the EPA's Office of Air and Radiation to assist the EPA Administrator to fulfill her responsibilities under sections 112(d) and 112(f) of the Clean Air Act (CAA), as amended. The CAA requires a review of each NESHAP following the application of the standards to determine any remaining risk and whether the standards protect public health with an ample margin of safety and to determine whether more stringent standards are necessary to prevent an adverse environmental effect. The CAA also requires that the standard be reviewed and revised, as necessary, taking into account developments in practices, processes, and control technology. For efficiency and to reduce burden, these reviews are conducted concurrently and known as residual risk and technology reviews (RTR). In addition to the CAA reviews, in 2007, the United States Court of Appeals for the District of Columbia Circuit issued a remand requiring the administrator to develop standards for emission units identified in the Plywood and Composite Wood Products (PCWP) NESHAP for which emission limits were not promulgated.

The EPA reviewed its emission inventory and compliance databases to determine if its current information was sufficient to conduct an RTR for the PCWP NESHAP and develop emission limits for the remanded PCWP process units. The available data for the affected population of plywood, composite wood products, and lumber dry kilns was found to be insufficient to adequately review and evaluate the emission standards for these source categories. The ICR will provide specific, required information, including emission inventories, compliance demonstrations, process changes, and information about control technologies/practices adopted since the application of maximum achievable control technology (MACT). Table 1 contains the North American Industry Classification System (NAICS) codes of facilities impacted by this information collection. Only major sources and synthetic area sources for these NESHAP categories will be affected by this information collection.

There will be a survey phase, Phase I, and a contingent testing phase, Phase

II, in this information collection. Phase I seeks to collect facility-level information (*e.g.,* facility name, location, contact information, and process unit details), emissions information, compliance data, control information, and descriptions of technological innovations. Phase I will be sent to all known operators of PCWP facilities that are major sources for hazardous air pollutants (HAP) regulated by these standards and synthetic area sources which used technology to avoid major PCWP NESHAP source status. Phase I responses may contain CBI. The survey will be provided and collected in an electronic format. The submission requires the owner or operator to certify that the information being provided is accurate and complete.

If the emission information that we collect in Phase I is inadequate to assess the remaining risk following the application of MACT and/or to assess technological developments in practices, processes, or controls that reduce HAP from PCWP facilities, we plan to require facilities to conduct emissions testing and will implement Phase II. Phase II, the testing phase of the survey, will be sent to selected PCWP facilities across the different industry segments. The emissions information collected in Phase II, if implemented, will not be CBI. However, production information will also be collected so that adequate emission factors can be generated from the required testing. There may be some production information associated with the emissions tests that facilities will consider CBI.

If OMB approves this ICR, this one-time collection will solicit information under authority of CAA section 114. The EPA intends to provide the survey in electronic format. The survey will be sent to all facilities identified as being affected by the PCWP NESHAP through information available to the Agency. The EPA envisions allowing recipients 90 days to respond to the survey after it is approved by the OMB and distributed to the PCWP industry for their response. Non-confidential information from this ICR would be made available to the public. Any information designated as confidential by a survey respondent that the EPA subsequently determines to constitute CBI or a trade secret under the EPA's CBI regulations at 40 CFR part 2, subpart B, will be protected pursuant to those regulations and, for trade secrets, under 18 U.S.C. 1905. If no claim of confidentiality accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice pursuant to the EPA regulations at 40 CFR 2.203. The EPA identified facilities potentially subject to the PCWP MACT using the Air Facility System (AFS) database, the Facility Registry Service (FRS) database, and the Enforcement and Compliance History Online (ECHO) database. Facilities were maintained in the facility list if the affected facilities were labeled as major sources or synthetic minor sources. This conservative approach to identifying affected facilities may overestimate the number of respondents.

TABLE 1—EXAMPLES OF REGULATED INDUSTRIES

NAICS codes	Examples of regulated entities
321113	Sawmills with lumber kilns.
321211	Hardwood plywood and veneer plants.
321212	Softwood plywood and veneer plants.
321213	Structural Wood Members, Not Elsewhere Classified (engineered wood products plants).
321219	Reconstituted Wood Product Manufacturing.
32199	All Other Wood Product Manufacturing.

This ICR was developed specifically for facilities regulated by the PCWP NESHAP rule and has been tailored to the processes of each PCWP manufacturing segment listed in the above table. The federal emission standard that is the subject of this information collection is the National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products (40 CFR part 63, subpart DDDD).

We have placed in the docket a draft version of the survey and are considering two additional response options for which we are requesting comment. First, we are considering an optional form for submitting emission information which includes default emission factors from AP–42 and other industry technical publications. Respondents can use the listed emission factors or their own factors. We believe this option may reduce the survey burden. We are requesting comments about whether such an emission estimation tool would be useful. Also, we plan to provide facilities the option of an on-line, electronic submission approach that will allow the entry of just the facility and sub-facility information for the Phase I survey directly into the FRS database using the Compliance and Emissions Data Reporting Interface (CEDRI). While we anticipate that entering data to the FRS database through CEDRI would reduce burden for the survey and for future EPA information collection activities, we have not estimated the potential burden reduction. Comments on the CEDRI/FRS information collection approach addressing its usefulness as an alternative and whether additional response time would be required are requested.

Respondents are asked to complete forms from available information, and no request is made to create or develop emission estimates from information in the literature. Responses to the ICR are mandatory under the authority of section 114 of the CAA.

Form Numbers: None.

Respondents/affected entities: Phase I of this ICR is specifically requesting information from major source facilities regulated by the PCWP NESHAP (40 CFR part 63, subpart DDDD) and synthetic area sources whose permit limits remove the facility from PCWP applicability. Phase II of this ICR, if implemented in whole or part, will only request information from major source facilities regulated by the PCWP NESHAP (40 CFR part 63, subpart DDDD).

Respondent's obligation to respond: Responses to the ICR are mandatory under the authority of section 114 of the CAA.

Estimated number of respondents: 425 (total).

Frequency of response: Once.

Total estimated burden: Since phase II of this ICR is contingent on the information collected in phase I, there is a range in the total estimated burden for this ICR. The range is from $12,003,650 to $19,778,180 and from 106,065 to 114,306 hours (per year), depending on whether Phase II is required. Burden is defined at 5 CFR 1320.03(b).

The Agency burden to implement Phase I is 14,658 hours and, potentially, 994 hours for Phase II. The estimated cumulative Agency burden to administer this ICR (all phases) is 15,652 hours.

Total estimated cost: The estimated costs for the PCWP industry for Phase I is $11,996,531, which includes $7,119 in operating and maintenance (O&M) costs to cover mailing hard copies of Phase I. The estimated Agency costs to administer Phase I is $511,033, which includes $7,353 in O&M costs to send certified CAA section 114 letters to all respondents selected for Phase I.

Since the actions in Phase II are contingent on the information collected in Phase I, the cost for Phase II could range from zero to the amount needed to conduct all the potential tests outlined in the test plan, the maximum amount. The EPA can only estimate the cost on the maximum amount at this time, however, since the Phase I information has not been collected. The estimated costs for the PCWP industry for Phase II, if implemented in whole, is $7,774,530, which includes $637 in O&M costs to cover mailing hard copies of Phase II. The estimated Agency costs to administer Phase II in whole is $34,872, which includes $706 in O&M costs to send certified CAA section 114 letters to all respondents selected for Phase II surveys with electronic return receipt.

The resulting maximum total industry costs for all phases of this ICR is estimated to be $19,778,180, which includes $7,755 in O&M costs to cover mailing hard copies of Phase I responses and Phase II. The estimated cumulative Agency costs to administer this ICR (all phases) is $545,905, which includes $8,059 in O&M costs to send certified CAA section 114 letters to all respondents selected for Phase I and Phase II surveys with electronic return receipt.

Changes in Estimates: This is a new ICR, so this section does not apply.

Peter Tsirigotis,

Director, Sector Policies and Programs Division, Office of Air Quality Planning and Standards.

[FR Doc. 2016–21507 Filed 9–7–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0360]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 7, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0360.

Title: Section 80.409, Station Logs (Maritime Services).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local and tribal government.

Number of Respondents: 19,919 respondents; 19,919 responses.

Estimated Time per Response: 27.3–95 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151–155, 301–609.

Total Annual Burden: 561,188 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission will submit this extension (no change in the recordkeeping requirement) to the OMB after this 60 day comment period to obtain the full three-year clearance from them. The information collection requirements are as follows:

Section 80.409(c), Public Coast Station Logs: This requirement is necessary to document the operation and public correspondence of public coast radio telegraph, public coast radiotelephone stations, and Alaska public-fixed stations, including the logging of distress and safety calls where applicable. Entries must be made giving details of all work performed which may affect the proper operation of the station. Logs must be retained by the licensee for a period of two years from the date of entry, and, where applicable, for such additional periods such as logs relating to a distress situation or disaster must be retained for three years from the date of entry in the log. If the Commission has notified the licensee of an investigation, the related logs must be retained until the licensee is specifically authorized in writing to destroy them. Logs relating to any claim or complaint of which the station licensee has notice must be retained until the claim or complaint has been satisfied or barred by statute limiting the time for filing suits upon such claims.

Section 80.409(d), Ship Radiotelegraph Logs: Logs of ship stations which are compulsorily equipped for radiotelegraphy and operating in the band 90 to 535 kHz must contain specific information in log entries according to this subsection.

Section 80.409(e), Ship Radiotelephone Logs: Logs of ship stations which are compulsorily equipped for radiotelephony must contain specific information in applicable log entries and the time of their occurrence.

The recordkeeping requirements contained in section 80.409 is necessary to document the operation and public correspondence service of public coast radiotelegraph, public coast radiotelephone stations and Alaska-public fixed stations, ship radiotelegraph, ship radiotelephone and applicable radiotelephone including the logging of distress and safety calls where applicable.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–21560 Filed 9–7–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0484]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 7, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0484.

Title: Part 4 of the Commission's Rules Concerning Disruptions to Communications.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 798 respondents; 13,012 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion and annual reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c.

Total Annual Burden: 25,006 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In accordance with 47 CFR 4.2, reports and information contained therein are presumed confidential. The filings are shared with the Department of Homeland Security through a password-protected real time access to NORS. Other persons seeking disclosure must follow the procedures delineated in 47 CFR Sections 0.457 and 0.459 of the Commission's rules for requests for and disclosure of information. The revisions noted in this information collection do not affect the confidential treatment of information provided to the Commission through outage reports filed in NORS.

Needs and Uses: On May 26, 2016, the Commission released a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, PS Docket Nos. 15–80, 11–60, and ET Docket No. 04–35; FCC 16–63 (The Report and Order and Order on Reconsideration) adopting final and proposed rules. The information to be collected pertains to final rules summarized and published in the **Federal Register** on July 12, 2016, 81 FR 45055.

The general purpose of the Commission's Part 4 rules is to gather sufficient information regarding disruptions to telecommunications to facilitate FCC monitoring, analysis, and investigation of the reliability and security of voice, paging, and interconnected VoIP communications services, and to identify and act on potential threats to our Nation's telecommunications infrastructure. The Commission uses this information collection to identify the duration, magnitude, root causes, and contributing factors with respect to significant outages, and to identify outage trends; support service restoration efforts; and help coordinate with public safety officials during times of crisis. The Commission also maintains an ongoing dialogue with reporting entities, as well as with the communications industry at large, generally regarding lessons learned from the information collection in order to a foster better understanding of the root causes of significant outages, and to explore preventive measures in the future so as to mitigate the potential scale and impact of such outages.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–21636 Filed 9–7–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10310 Western Commercial Bank, Woodland Hills, California

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10310 Western Commercial Bank, Woodland Hills, California (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Western Commercial Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective September 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: September 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–21464 Filed 9–7–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011741–021.

Title: U.S. Pacific Coast-Oceania Agreement.

Parties: ANL Singapore Pte Ltd./CMA CGM S.A.; Hamburg-Sud; and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The amendment revises the space allocations of the parties.

Agreement No.: 012297–003.

Title: ECNA/ECSA Vessel Sharing Agreement.

Parties: Hamburg Sud; Alianca Navegacao e Logistica Ltds. E CIA; Companhia Libra de Navegacao; Hapag-lloyd AG.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The Amendment would revise the space allocations of the parties and add authority for the parties to make minor adjustments to those allocations in the future without having to amend the Agreement.

Agreement No.: 012310–001.

Title: Crowley Latin America Services, LLC/Antillean Marine Shipping Corp. Space Charter Agreement.

Parties: Crowley Latin America Services, LLC and Antillean Marine Shipping Corp.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor, 1627 I Street NW., Washington, DC 20006.

Synopsis: The Agreement would revise the agreement to authorize the reciprocal, rather than one-way, chartering of space in the trade covered by the Agreement.

By Order of the Federal Maritime Commission.

Dated: September 2, 2016.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2016–21595 Filed 9–7–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice FR Doc. 2016–20202 published on page 57910 of the issue for August 24, 2016.

Under the Federal Reserve Bank of Atlanta heading, the entry for *Sunshine Bancorp, Inc., Plant City, Florida ("Sunshine")* is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Sunshine Bancorp, Inc., Plant City, Florida ("Sunshine");* to become a savings and loan holding company. Sunshine currently is a savings and loan holding company; Sunshine proposes to become a bank holding company for a moment in time by merging with FBC Bancorp Inc., Orlando, Florida and acquire its subsidiary bank, Florida Bank of Commerce, Orlando Florida, ("FB Bank"). Sunshine also has applied to retain its savings association, Sunshine Bank, Plant City, Florida. After the acquisition, Sunshine proposes to merge FB Bank with Sunshine Bank, with Sunshine Bank as the surviving entity, and become a savings and loan holding company.

Comments on this application must be received by September 21, 2016.

Board of Governors of the Federal Reserve System, September 1, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–21471 Filed 9–7–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board or Federal Reserve) is adopting a proposal to revise, with extension, the mandatory Consolidated Financial Statements for Holding Companies (FR Y–9C). The Board also proposes to extend, without revision, the other forms that make up the family of FR Y–9 reporting forms. These are: The Parent Company Only Financial Statements for Large Holding Companies (FR Y–9LP) The Parent Company Only Financial Statements for Small Holding Companies (FR Y–9SP) The Financial Statements for Employee Stock Ownership Plan Holding Companies (FR Y–9ES) The Supplement to the Consolidated Financial Statements for Holding Companies (FR Y–9CS). The revisions to this mandatory information collection become effective on September 30, 2016, and March 31, 2017. The Board is also adopting a proposal to extend, without revision, the other reports that are part of this information collection.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Consolidated Financial Statements for Holding Companies, Parent Company Only Financial Statements for Large Holding Companies, Parent Company Only Financial Statements for Small Holding Companies, Financial Statement for Employee Stock Ownership Plan Holding Companies, and the Supplemental to the Consolidated Financial Statements for Holding Companies.

OMB control number: 7100–0128.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

Frequency: Quarterly, semiannually, and annually.

Reporters: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs) and Intermediate Holding Companies (IHCs) (collectively, holding companies).

Estimated annual reporting hours: FR Y–9C (non-Advanced Approaches holding companies): 131,245 hours; FR Y–9C (Advanced Approaches holding companies): 2,674 hours; FR Y–9LP: 16,632 hours; FR Y–9SP: 44,518 hours; FR Y–9ES: 44 hours; FR Y–CS: 472 hours.

Estimated average hours per response: FR Y–9C (non-Advanced Approaches holding companies): 50.17 hours; FR Y–9C (Advanced Approaches holding companies): 51.42 hours; FR Y–9LP: 5.25 hours; FR Y–9SP: 5.40 hours; FR Y–9ES: 0.50 hours; FR Y–9CS: 0.50 hours.

Number of respondents: FR Y–9C (non-Advanced Approaches holding companies): 654; FR Y–9C (Advanced Approaches holding companies): 13; FR Y–9LP: 792; FR Y–9SP: 4,122; FR Y–9ES: 88; FR Y–9CS: 236.

General description of report: This information collection is mandatory for BHCs (12 U.S.C. 1844(c)(1)(A)). Additionally, 12 U.S.C. 1467a (b)(2)(A) and 1850a(c)(1)(A), respectively, authorize the Federal Reserve to require that SLHCs and supervised SHCs file with the Federal Reserve. Lastly, 12 U.S.C. 5365 authorizes the Federal Reserve to require that U.S. IHCs file with the Federal Reserve. Confidential treatment is not routinely given to the financial data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), or (b)(8) of FOIA (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)). The applicability of these exemptions would need to be reviewed on a case by case basis.

Abstract: The FR Y–9C is a standardized financial statement for the consolidated holding company. The FR Y–9LP and the FR Y 9SP serve as standardized financial statements for parent holding companies; the FR Y–9ES is a financial statement for holding companies that are Employee Stock Ownership Plans (ESOPs). The Federal Reserve also has the authority to use the FR Y–9CS (a free-form supplement) to collect additional information deemed to be (1) critical and (2) needed in an expedited manner. The FR Y–9 family of reporting forms continues to be the primary source of holding company financial data that examiners rely on in the intervals between on-site inspections. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate holding company mergers and acquisitions, and to analyze a holding company's overall financial condition to ensure the safety and soundness of its operations.

Current Actions: On December 2, 2015, the Federal Reserve published a notice in the **Federal Register** requesting public comment for 60 days on the proposed revisions to the FR Y–9C.[1] As proposed, the revisions would have become effective in March 2016. Based on comments received on the proposal and other factors, the Federal Reserve notified institutions that the revisions would be deferred until no earlier than September 2016. Most of the proposed revisions were reporting burden reductions consistent with proposed changes to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100–0036). The proposed revisions included deletions of existing data items, increases in existing thresholds for certain data items, a number of instructional revisions and the addition of new and revised data items.

The Federal Reserve received one comment letter from a bankers' association regarding proposed revisions to the FR Y–9C. The Federal Reserve also considered the comments on the Call Reports in developing the draft final notice for consistency. The Board, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) (the agencies) collectively received comment letters from seven banking organizations, four bankers' associations and two consulting firms on similar proposed revisions to the Call Reports.

The commenters generally supported the proposal, but suggested delayed implementation of the revisions. The Federal Reserve has delayed the effective dates for these changes consistent with the timing suggested by commenters. The Federal Reserve adopted most of the revisions as proposed, except for a few instructional changes due to comments received.

The following is a detailed discussion of the comments received and the Federal Reserve's responses to the comments.

Detailed Discussion of Public Comment

A. Deletions of Existing Data Items

The Federal Reserve proposed that the continued collection of the following items was no longer necessary and proposed to eliminate them effective March 2016:

(1) Schedule HI, Memorandum items 17(a) and 17(b), on other-than-temporary impairments;[2]

(2) Schedule HC–C, Memorandum items 1(f)(2), 1(f)(5), and 1(f)(6) on troubled debt restructurings in certain loan categories that are in compliance with their modified terms;

(3) Schedule HC–N, Memorandum items 1(f)(2), 1(f)(5), and 1(f)(6) on troubled debt restructurings in certain loan categories that are 30 days or more past due or on nonaccrual;

(4) Schedule HC–M, items 6(a)(5)(a) through (d) on loans in certain loan categories that are covered by FDIC loss-sharing agreements; and

(5) Schedule HC–N, items 12(e)(1) through (4) on loans in certain loan categories that are covered by FDIC loss-sharing agreements and are 30 days or more past due or on nonaccrual.

In addition, when Schedule HC–R, Part II, is completed properly, item 18(b) on unused commitments to asset-backed commercial paper conduits with an original maturity of one year or less is not needed because such commitments should already have been reported in item 10 as off-balance sheet securitization exposures. The instructions for item 18(b) explain that these unused commitments should be reported in item 10 and that amounts should not be reported in item 18(b).

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[1] Notice of the proposed action was published in the **Federal Register**; the comment period expired on February 1, 2016. See FR 80 75457.

[2] Institutions would continue to complete Schedule HI, Memorandum item 17(c), on net impairment losses recognized in earnings.

Accordingly, the Federal Reserve proposed to delete existing item 18(b) from Schedule HC–R, Part II. Existing item 18(c) of Schedule HC–R, Part II, for unused commitments with an original maturity exceeding one year would then be renumbered as item 18(b).

Comments were received from two consulting firms and one banking organization regarding those proposed deletions. The banking organization stated that these revisions would have no impact on its reporting. One consulting firm agreed with all of the proposed deletions except the one involving information on other-than-temporary impairment (OTTI) losses in Schedule HI, Memorandum items 17(a) and 17(b). The firm believed the deletion of the two OTTI items would eliminate the reporting of important information about the performance of institutions' securities portfolios and how they recognize OTTI. While the Federal Reserve acknowledges that this proposal would result in the loss of information on the total year-to-date amount of OTTI losses and the portion of these losses recognized in other comprehensive income, institutions would continue to report the portion of OTTI losses recognized in earnings. It is this portion of OTTI losses that is of greatest interest and concern to the Federal Reserve. Because some or all of each OTTI loss must be recognized in earnings, when an institution reports a substantial amount of OTTI losses in earnings, it is this item that serves as a red flag for further supervisory follow-up. Additionally, the portion of OTTI losses that passes through other comprehensive income and accumulates in other comprehensive income is excluded from regulatory capital for the vast majority of institutions.

One consulting firm expressed concern about the proposed deletion of Memorandum items on troubled debt restructurings in certain loan categories in Schedules HC–C and HC–N. This firm stated that this information is important for understanding the specific nature of troubled loans relative to restructured loans and suggested that the loan categories being deleted may need to be added back if there is a significant economic downturn. The Federal Reserve notes that each of the loan categories proposed for deletion is a subset of the larger loan category "All other loans," which institutions would continue to report. Furthermore, the amount of troubled debt restructurings in each of these subset categories is reported only when it exceeds 10 percent of the total amount of troubled debt restructurings in compliance with their modified terms (Schedule HC–C) or not in compliance with their modified terms (Schedule HC–N), as appropriate. Thus, the total amount of an institution's troubled debt restructurings, both those in compliance with their modified terms and those that are not, would continue to be reported.

After considering these comments, the Federal Reserve will remove all of the items proposed for deletion from the FR Y–9C effective September 30, 2016, except for the deletion relating to OTTI, which would take effect March 31, 2017.

B. New Reporting Threshold and Increases in Existing Reporting Thresholds

In three FR Y–9C schedules, holding companies are currently required to itemize and describe each component of an existing item when the component exceeds both a specified percentage of the item and a specified dollar amount. Based on a preliminary evaluation of the existing reporting thresholds, the Federal Reserve proposed that the dollar portion of the thresholds that currently apply to these items could be increased to provide a reduction in reporting burden without a loss of data that would be necessary for supervisory or other public policy purposes. The percentage portion of the existing thresholds would not be changed. Accordingly, the Federal Reserve proposed to raise from $25,000 to $100,000 the dollar portion of the threshold for itemizing and describing components of:

(1) Schedule HI, memo item 6, "Other noninterest income;"

(2) Schedule HI, memo item 7, "Other noninterest expense;"

(3) Schedule HC–Q, Memorandum item 1, "All other assets;" and

(4) Schedule HC–Q, Memorandum item 2, "All other liabilities."

To reduce burden, the Federal Reserve also proposed to raise from $25,000 to $1,000,000 the dollar portion of the threshold for itemizing and describing components of "Other trading assets" and "Other trading liabilities" in Schedule HC–D, Memorandum items 9(b) and 10.

Based on the Federal Reserve's review of items reported on Schedule HC–I, Insurance-Related Underwriting Activities (Including Reinsurance), the Federal Reserve proposed to add a $10,000,000 threshold to provide a reduction in reporting burden for reinsurance recoverables reported on Schedule HC–I, Part I line item 1 and HC–I, Part II line item 1, due to the limited activity and immateriality on these line items. Reporting of these data items would be determined as of the end of each quarter.

Two bankers' associations, two consulting firms, and two banking organizations commented on the proposed changes involving reporting thresholds. One banking organization supported the higher thresholds, stating that raising the thresholds would reduce reporting burden, but the other said that this change would not have an impact on its reporting. The two bankers' associations expressed support for the targeted approach to increasing the reporting thresholds, but observed that an increase from $25,000 to $100,000 would do little to reduce reporting burden for most institutions. The associations recommended increasing the percentage portion of the reporting threshold for which components must be itemized and described. At present, the percentage portion of the reporting threshold applicable to reporting components of "Other noninterest income" and "Other noninterest expense" in Schedule HI is three percent.[3] The associations recommended increasing this percentage to a range of 5 to 7 percent.

Because of the interaction between the dollar and percentage portions of the reporting thresholds on the total amount of an item that is subject to component itemization and description, the Federal Reserve acknowledges that the proposed increase in the dollar portion of the reporting threshold from $25,000 to $100,000 may not benefit all holding companies, particularly larger holding companies. One consulting firm supported the increase in the dollar portion of the reporting threshold for Schedule HC–Q, but recommended retaining the $25,000 threshold for the "Other noninterest income" and "Other noninterest expense" in Schedule HI. The consulting firm commented that, for smaller institutions, information on the components of these noninterest items "is an important indicator of the activity of the institution, its style and management ability" and "provide[s] regulators with a clearer insight into the activities of a bank." This firm also observed that the component information is or should be captured in the internal accounting systems. The Federal Reserve recognizes that the proposed increase in the dollar portion of the threshold for reporting components of other noninterest income and expense would result in a reduced number of their components being itemized and described in the FR Y–9C

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[3] For the other items for which Federal Reserve proposed an increase in the dollar portion of the existing reporting threshold, the percentage portion of the threshold is 25 percent of the total amount of the item.

Schedule HI, particularly by smaller holding companies. However, in carrying out on- and off-site supervision of holding companies, the Federal Reserve is able to follow up directly with an individual holding company when the level and trend of noninterest income and expense, and other elements of net income (or loss), that are reflected in its FR Y–9C raise questions about the quality of, and the factors affecting, the holding company's reported earnings. The Federal Reserve does not believe the proposed increase in the dollar portion of the reporting thresholds in Schedule HI will impede the ability to evaluate holding companies' earnings.

Another consulting firm questioned the proposed increase from $25,000 to $1,000,000 in the dollar portion of the threshold for itemizing and describing components of "Other trading assets" and "Other trading liabilities" in Schedule HC–D, Memorandum items 9 and 10. In addition to meeting the dollar portion of the threshold, a component must exceed 25 percent of the total amount of "Other trading assets" or "Other trading liabilities" in order to be itemized and described in Memorandum item 9 or 10, respectively. These two memorandum items are to be completed only by holding companies that report average trading assets of $1 billion or more in any of the four preceding calendar quarters. Thus, at $1,000,000, the proposed higher dollar threshold for component itemization and description in Memorandum items 9 and 10 of Schedule HC–D would represent one tenth of one percent of the amount of average trading assets that a holding company must have in order to be subject to the requirement to report components of its other trading assets and liabilities that exceed the reporting threshold. As a result, the Federal Reserve believes that raising the dollar portion of the threshold for reporting components of Memorandum items 9 and 10 of Schedule HC–D to $1,000,000 will continue to provide meaningful data while reducing burden for holding companies that must complete these items.

No comments were received on the proposal to add a $10,000,000 threshold on HC–I. After considering the comments about the proposed new and increased reporting thresholds, the Federal Reserve will implement all of these changes effective September 30, 2016.[4]

C. Instructional Revisions

1. Reporting Home Equity Lines of Credit that Convert from Revolving to Non Revolving Status.

Holding companies report the amount outstanding under revolving, open-end lines of credit secured by 1–4 family residential properties (commonly known as home equity lines of credit or HELOCs) in item 1(c)(1) of Schedule HC–C, Loans and Leases. Closed-end loans secured by 1–4 family residential properties are reported in Schedule HC–C, item 1(c)(2)(a) or (b), depending on whether the loan is a first or a junior lien.[5]

A HELOC is a line of credit secured by a lien on a 1–4 family residential property that generally provides a draw period followed by a repayment period. During the draw period, a borrower has revolving access to unused amounts under a specified line of credit. During the repayment period, the borrower can no longer draw on the line of credit, and the outstanding principal is either due immediately in a balloon payment or is repaid over the remaining loan term through monthly payments. The FR Y–9C instructions do not address the reporting treatment for a home equity line of credit when it reaches its end-of-draw period and converts from revolving to nonrevolving status. Such a loan no longer has the characteristics of a revolving, open-end line of credit and, instead, becomes a closed-end loan. In the absence of instructional guidance that specifically addresses this situation, the Federal Reserve has found diversity in how these credits are reported in Schedule HC–C. Some holding companies continue to report home equity lines of credit that have converted to non-revolving closed-end status in item 1(c)(1) of Schedule HC–C, as if they were still revolving open-end lines of credit, while other holding companies recategorize such loans and report them as closed-end loans in item 1(c)(2)(a) or (b), as appropriate.

Therefore, to address this absence of instructional guidance and promote consistency in reporting, the Federal Reserve proposed to clarify the instructions for reporting loans secured by 1–4 family residential properties to specify that after a revolving open-end line of credit has converted to non-revolving closed-end status, the loan should be reported in Schedule HC–C, item 1(c)(2)(a) or (b), as appropriate.

Two bankers' associations, one consulting firm, and one banking organization commented on the proposed instructional clarification for HELOCs. The consulting firm agreed with this clarification because of the consistency in reporting that it would provide. The two bankers' associations stated that they appreciated the proposed clarification, but noted that "material definitional changes would require a whole recoding of these credits." The associations observed that the proposed clarification would likely have implications for other regulatory requirements such as the Comprehensive Capital Analysis and Review, which evaluates the capital planning processes and capital adequacy of the largest U.S.-based bank holding companies. They also described two situations involving HELOCs for which further guidance would be needed if the proposed instructional change were to be implemented and recommended that examples be provided with the instructions for reporting HELOCs.

The banking organization opposed the proposed instructional clarification for HELOCs and requested that it be withdrawn, citing several difficulties it would encounter if the clarification were made. These difficulties include identifying when a HELOC has begun the repayment period and the lien position of a HELOC at that time because the bank's loan system for HELOCs has not been set up to generate this information. The bank requested time for systems reprogramming if the proposed instructional clarification were to be adopted.

Based on the issues raised in the comments received on the proposed HELOC instructional clarification, the Federal Reserve will give further consideration to this proposal, including its effect on and relationship to other regulatory reporting requirements. Accordingly, the Federal Reserve will not proceed with this proposed instructional clarification at this time and the existing instructions for reporting HELOCs in item 1.c(1) of Schedule HC–C, will remain in effect. Once the Federal Reserve completes its consideration of this instructional matter and determines whether and how the FR Y–9C instructions should be clarified with respect to the reporting of revolving open-end lines of credit that have converted to non-revolving closed-end status, any proposed instructional clarification will be published in the **Federal Register** for comment.

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[4] Although the proposed reporting threshold changes would take effect as of September 30, 2016, holding companies may choose, but are not required, to continue using $25,000 as the dollar portion of the threshold for reporting components of the specified items in the three previously identified schedules rather than the higher dollar thresholds.

[5] Information also is separately reported for open-end and closed-end loans secured by 1–4 family residential properties in Schedule HI–B, Part I, Charge-offs and Recoveries on Loans and Leases; Memorandum items in Schedule HC–C; Schedule HC–D; Schedule HC–M; and Schedule HC–N.

2. Reporting Treatment for Securities for Which a Fair Value Option Is Elected

The FR Y–9C Glossary entry for "Trading Account" currently states that "all securities within the scope of the Financial Accounting Standards Board's (FASB) Accounting Standards Codification (ASC) Topic 320, Investments-Debt and Equity Securities (formerly FASB Statement No. 115, "Accounting for Certain Investments in Debt and Equity Securities"), that a holding company has elected to report at fair value under a fair value option with changes in fair value reported in current earnings should be classified as trading securities." This reporting treatment was based on language contained in former FASB Statement No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities," but that language was not codified when Statement No. 159 was superseded by current ASC Topic 825, Financial Instruments. Thus, under U.S. GAAP as currently in effect, the classification of all securities within the scope of ASC Topic 320 that are accounted for under a fair value option as trading securities is no longer required. Accordingly, to bring the "Trading Account" Glossary entry into conformity with current U.S. GAAP, the Federal Reserve proposed to revise the statement from the Glossary entry quoted above by replacing "should be classified" with "may be classified."

This revision to the "Trading Account" Glossary entry would have meant that a holding company that elects the fair value option for securities within the scope of ASC Topic 320 would have been able to classify such securities as held-to-maturity or available-for-sale in accordance with this topic based on the holding company's intent and ability with respect to the securities. In addition, a holding company could have chosen to classify securities for which a fair value option is elected as trading securities.

Holding companies that have been required to classify all securities within the scope of ASC Topic 320 that are accounted for under a fair value option as trading securities also should consider the related proposed changes to Schedule HC–Q, Assets and Liabilities Measured at Fair Value on a Recurring Basis, which are discussed below.

Comments from two bankers' associations and one consulting firm were received regarding the proposed instructional revision for the classification of securities for which the fair value option is elected. The consulting firm welcomed the proposal. The two bankers' associations stated that they understood the purpose of the proposed instructional revision, but they requested further clarification of the reporting treatment for "securities for which an institution has elected to use the trading measurement classification," *i.e.,* fair value through earnings.

The Federal Reserve has reconsidered this proposed instructional revision in light of the comments received, including the requested further clarification. Based on this reconsideration, the Federal Reserve has decided not to implement the proposed instructional revision and to retain the existing FR Y–9C instructions directing institutions to classify securities reported at fair value under a fair value option as trading securities.

3. Net Gains (Losses) on Sales of, and Other-Than-Temporary Impairments on, Equity Securities That Do Not Have Readily Determinable Fair Values

Holding companies report investments in equity securities that do not have readily determinable fair values and are not held for trading (and to which the equity method of accounting does not apply) in Schedule HC–F, item 4, and on the FR Y–9C balance sheet in Schedule HC, item 11, "Other assets." If such equity securities are held for trading, they are reported in Schedule HC, item 5, and in Schedule HC–D, item 9 and Memorandum item 7.b, if applicable. In contrast, investments in equity securities with readily determinable fair values that are not held for trading are reported as available-for-sale securities in Schedule HC, item 2(b), and in Schedule HC–B, item 7, whereas those held for trading are reported in Schedule HC, item 5, and in Schedule HC–D, item 9 and Memorandum item 7(a), if applicable.

In general, investments in equity securities that do not have readily determinable fair values are accounted for in accordance with ASC Subtopic 325–20, Investments—Other—Cost Method Investments (formerly Accounting Principles Board Opinion No. 18, "The Equity Method of Accounting for Investments in Common Stock"), but are subject to the impairment guidance in ASC Topic 320, Investments-Debt and Equity Securities (formerly FASB Staff Position No. FAS 115–2 and FAS 124–2, "Recognition and Presentation of Other-Than-Temporary Impairments").

The FR Y–9C instructions for Schedule HI, Income Statement, address the reporting of realized gains (losses), including other-than-temporary impairments, on held to-maturity and available-for-sale securities as well as the reporting of realized and unrealized gains (losses) on trading securities and other assets held for trading. However, the Schedule HI instructions do not specifically explain where to report realized gains (losses) on sales or other disposals of, and other-than-temporary impairments on, equity securities that do not have readily determinable fair values and are not held for trading (and to which the equity method of accounting does not apply).

The instructions for Schedule HI, item 5.k, "Net gains (losses) on sales of other assets (excluding securities)," direct holding companies to "report the amount of net gains (losses) on sales and other disposals of assets not required to be reported elsewhere in the income statement (Schedule HI)." The instructions for item 5(k) further advise holding companies to exclude net gains (losses) on sales and other disposals of securities and trading assets. The intent of this wording was to cover securities designated as held-to-maturity, available-for-sale, and trading securities because there are separate specific items elsewhere in Schedule HI for the reporting of realized gains (losses) on such securities (items 6(a), 6(b), and 5(c), respectively).

Thus, the Federal Reserve proposed to revise the instructions for Schedule HI, item 5(k), by clarifying that the exclusions from this item of net gains (losses) on securities and trading assets apply to held-to-maturity, available-for-sale, and trading securities and other assets held for trading. At the same time, the Federal Reserve proposed to add language to the instructions for Schedule HI, item 5(k), that explains that net gains (losses) on sales and other disposals of equity securities that do not have readily determinable fair values and are not held for trading (and to which the equity method of accounting does not apply), as well as other-than-temporary impairments on such securities, should be reported in item 5(k). In addition, the Federal Reserve proposed to remove the parenthetic "(excluding securities)" from the caption for item 5(k) and add in its place a footnote to this item advising holding companies to exclude net gains (losses) on sales of trading assets and held-to-maturity and available-for-sale securities.

No comments were received on these proposed changes to the instructions and report form caption for Schedule HI, item 5(k). Accordingly, the changes would take effect March 31, 2017.

D. New and Revised Data Items

1. Increase in the Time Deposit Size Threshold

The Federal Reserve proposed to increase the time deposit size threshold from $100,000 to $250,000 in Schedule HC–E, memorandum item 3, Time Deposits of $100,000 or more with a remaining maturity of one year or less. The comparable line item on the Call Report is being revised to reflect the permanent $250,000 deposit insurance limit. Therefore, the Federal Reserve proposed this change to maintain consistency between the two reports.

The agencies received comments on the proposed increases in time deposit thresholds from four banking organizations, one consulting firm and two bankers' associations. Three banking organizations and two bankers' associations supported the proposed increase and further recommended increasing the deposit size threshold on brokered deposit items and time deposits of less than $100,000.

In response to these comments, the Federal Reserve reviewed the collection and use of brokered deposit information reported in HC–E Memorandum items and has determined that HC–E Memorandum item 1, Brokered Deposits less than $100,000 with a remaining maturity of one year or less and HC–E Memorandum 2, Brokered deposits less than $100,000 with a remaining maturity of more than one year can be revised to reflect the $250,000 deposit size threshold. The Federal Reserve also reviewed the use of deposit information reported in HC–E 1(d) and 1(e) and HC–E 2(d) and (2e), time deposits of less than $100,000 and time deposits greater than $100,000 in domestic offices of commercial bank subsidiaries of the reporting holding company, and time deposits held in domestic offices of other depository institutions that are subsidiaries of the reporting holding company, and determined that these items can be revised to reflect the $250,000 threshold.

One commenter questioned why the FR Y–9C proposal did not modify Schedule HI to reflect the increased deposit threshold similar to the Call Report. The commenter stated that by not aligning the reports may create confusion and delays as banks would have to maintain separate reporting systems. The Federal Reserve has reviewed the data collection and use of the deposit information reported in Schedule HI line item 2(a)1(a), Interest on Time Deposits of $100,000 or more and HI 2(a)1(b) Interest on Time Deposits of less than $100,000 and determined that these items can also be revised to reflect the $250,000 threshold.

The proposed changes to Schedule HC–E as well as the proposed change to HI would take effect March 31, 2017.

2. Changes to Schedule RC–Q, Assets and Liabilities Measured at Fair Value on a Recurring Basis

Holding companies reporting on Schedule HC–Q are currently required to treat securities they have elected to report at fair value under a fair value option as part of their trading securities. As a consequence, institutions must include fair value information for their fair value option securities, if any, in Schedule HC–Q two times: First, as part of the fair value information they report for their "Other trading assets" in item 5(b) of the schedule, and then on a standalone basis in item 5(b)(1), "Nontrading securities at fair value with changes in fair value reported in current earnings." This reporting treatment flows from the existing provision of the Glossary entry for "Trading Account" that, as discussed above, requires an institution that has elected to report securities at fair value under a fair value option to classify the securities as trading securities. However, as discussed above, the Federal Reserve proposed to remove this requirement, which would have permitted an institution to classify fair value option securities as held-to-maturity, available-for-sale, or trading securities.

In its current form, Schedule HC–Q contains an item for available-for-sale securities along with the items identified above for "Other trading assets," which includes securities designated as trading securities, and "Nontrading securities at fair value with changes in fair value reported in current earnings." However, given the existing instructional requirements for fair value option securities, Schedule HC–Q does not include an item for reporting held-to-maturity securities because only securities reported at amortized cost are included in this category of securities. Along with proposing to remove the requirement to report fair value option securities as trading securities, as discussed earlier in this notice, the Federal Reserve also proposed to replace item 5(b)(1) of Schedule HC–Q for nontrading securities accounted for under a fair value option with a new item for any "Held-to-Maturity securities" to which a fair value option is applied.

In addition, at present, holding companies that have elected to measure loans (not held for trading) at fair value under a fair value option are required to report the fair value and unpaid principal balance of such loans in Memorandum items 10 and 11 of Schedule HC–C, Loans and Lease Financing Receivables. This information is also collected on the Call Report Schedule RC–C Loans and Leases. The FDIC and the OCC (the agencies) have proposed to move this information in the Call Report from Schedule RC–C to Schedule RC–Q, Assets and Liabilities Measured at Fair Value on a Recurring Basis. Holding companies have commented in the past that retaining a consistent format between the Call Report and the FR Y–9C on the reporting of comparable information reduces reporting burden to the holding companies. Accordingly, the Federal Reserve proposed to move Memorandum items 10 and 11 on the fair value and unpaid principal balance of fair value option loans from Schedule HC–C, to Schedule HC–Q effective March 31, 2017, and to designate them as Memorandum items 3 and 4.

Two bankers' association requested clarification on the proposed reporting of held-to-maturity securities, available-for-sale securities and securities for which a trading measurement classification has been elected in Schedule HC–Q. As stated above, the Federal Reserve reconsidered, and decided not to implement, the proposed instructional revision that would no longer have required an institution to classify fair value option securities as trading securities. Based on this decision, the Federal Reserve also will not implement the proposed elimination of the existing Schedule HC–Q item for nontrading securities accounted for under a fair value option and their proposed addition to the schedule of a new item for held-to-maturity securities.

No comments were received on the proposal to move the Memorandum items in Schedule HC–C, on the fair value and unpaid principal balance of fair value option loans to Schedule HC–Q, where they would be designated as Memorandum items 3 and 4. Therefore, the Federal Reserve will proceed with this change effective March 31, 2017.

3. Extraordinary Items

In January 2015, the FASB issued ASU No. 2015–01, "Simplifying Income Statement Presentation by Eliminating the Concept of Extraordinary Items." This ASU eliminates the concept of extraordinary items from U.S. GAAP. At present, ASC Subtopic 225–20, Income Statement—Extraordinary and Unusual Items (formerly Accounting Principles Board Opinion No. 30, "Reporting the Results of Operations"), requires an entity to separately classify, present, and disclose extraordinary events and transactions. An event or transaction is presumed to be an ordinary and usual activity of the reporting entity unless evidence clearly supports its classification as an extraordinary item.

ASU 2015–01 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. Thus, for example, holding companies with a calendar year fiscal year must begin to apply the ASU in their FR Y–9C for March 31, 2016.[6] After a holding company adopts ASU 2015–01, any event or transaction that would have met the criteria for extraordinary classification before the adoption of the ASU should be reported in Schedule HI, item 5(l), "Other noninterest income," or item 7(d), "Other noninterest expense," as appropriate, unless the event or transaction would otherwise be reportable in another item of Schedule HI.

Consistent with the elimination of the concept of extraordinary items in ASU 2015–01, the Federal Reserve proposed to revise the instructions for Schedule HI, item 11, and remove the term "extraordinary items" and revise the captions for Schedule HI, item 8, "Income (loss) before income taxes and extraordinary items and other adjustments," item 10, "Income (loss) before extraordinary items and other adjustments" and item 11, "Extraordinary items and other adjustment, net of income taxes effective March 31, 2016. After the concept of extraordinary items has been eliminated and such items would no longer be reportable in Schedule HI, item 11, only the results of discontinued operations would be reportable in item 11. Accordingly, effective March 31, 2016, the revised captions for Schedule HI, items 8, 10 and 11 would become "Income (loss) before income taxes and discontinued operations," "Income (loss) before discontinued operations," and "discontinued operations, net of applicable income taxes" respectively. The captions for Schedule HI, memorandum items 2 and 8, and items 8 and 11 on the Predecessor Financial Items and applicable Glossary references would also be revised to eliminate the concept of extraordinary items.

No comments were received on the planned changes related to extraordinary items. Accordingly, effective September 30, 2016, the captions for Schedule HI, items 8, 10, and 11, would be revised to say "Income (loss) before income taxes and discontinued operations," "Income (loss) before discontinued operations," and "Discontinued operations, net of applicable income taxes," respectively. Similarly, the captions for Schedule HI, memorandum items 2 and 8, and items 8 and 11 on the Predecessor Financial Items and applicable Glossary references would also be revised to eliminate the concept of extraordinary items.

Additional Comments

One commenter requested clarification on why the proposed change to the Call Report regarding trading revenues due to changes in credit and debit valuation adjustments was not proposed on the FR Y–9C report. The Federal Reserve reviewed this information and determined that the proposed changes are not necessary for the FR Y–9C and that the current information is adequate to meet the Federal Reserve's supervisory needs.

Board of Governors of the Federal Reserve System, September 1, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–21524 Filed 9–7–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 3, 2016.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Greater State Bancshares Corp., McAllen, Texas,* to become a bank holding company through the acquisition of Greater State Bank, Falfurrias, Texas.

Board of Governors of the Federal Reserve System, September 2, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–21597 Filed 9–7–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2016–21009) published on pages 60354 of the issue for Thursday, September 1, 2016.

Under the Federal Reserve Bank of Chicago heading, the entry for *The Stephen L. LaFrance, Jr. GW Investments Trust, the Jason P. LaFrance GW Investments Trust, the Amy Beth LaFrance GW Investments Trust, all of Little Rock, Arkansas, Stephen L. LaFrance, Jr., Little Rock, Arkansas, as trustee of the Stephen L. LaFrance, Jr. GW Investments Trust and co-trustee of the Jason P. LaFrance GW Investments Trust, and Jason P. LaFrance, Little Rock, Arkansas, as co-trustee of the Jason P. LaFrance GW Investments Trust and as trustee of the Amy Beth LaFrance GW Investments Trust and the Amy LaFrance Bancroft GW Investments Revocable Trust, Little Rock, Arkansas* is revised to read as follows:

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Stephen L. LaFrance, Jr. GW Investments Trust, the Jason P. LaFrance GW Investments Trust, the Amy Beth LaFrance GW Investments Trust, all of Little Rock, Arkansas, Stephen L. LaFrance, Jr., Little Rock, Arkansas, as trustee of the Stephen L. LaFrance, Jr. GW Investments Trust and*

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[6] Early adoption of ASU 2015–01 is permitted provided that the guidance is applied from the beginning of the fiscal year of adoption.

co-trustee of the Jason P. LaFrance GW Investments Trust, and Jason P. LaFrance, Little Rock, Arkansas, as co-trustee of the Jason P. LaFrance GW Investments Trust and as trustee of the Amy Beth LaFrance GW Investments Trust and the Amy LaFrance Bancroft GW Investments Revocable Trust, Little Rock, Arkansas, and Daniel B. Andrews, Sherwood, Arkansas; to acquire voting shares of Greenwoods Financial Group, Inc., Lake Mills, Wisconsin, and thereby join the existing LaFrance Family Control Group that was approved to acquire 10 percent or more of the outstanding shares of Greenwoods Financial Group, Inc. Greenwoods Financial Group, Inc. controls The Greenwood's State Bank, Lake Mills, Wisconsin.

Comments on this application must be received by September 16, 2016.

Board of Governors of the Federal Reserve System, September 1, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–21505 Filed 9–7–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 23, 2016.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Robert Quintana, Las Vegas, New Mexico;* to acquire shares of FNB Financial Corporation, and thereby indirectly acquire Community 1st Bank Last Vegas, both of Las Vegas, New Mexico.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Andrew C. Rector, Fort Worth, Texas, individually; and Andrew C. Rector, Linda Lloyd Rector 2009 Irrevocable Trust, Tracy T. Rector 2009 Irrevocable Trust, Scott Willis Rector 2009 Irrevocable Trust, and Andrew Campbell Rector 2009 Irrevocable Trust, all of Fort Worth, Texas, and Kathy Rector, Azle, Texas,* as a group acting in concert, to acquire shares of Horizon Bankshares, Inc., and therefore indirectly The National Bank of Texas at Fort Worth, both of Fort Worth, Texas.

Board of Governors of the Federal Reserve System, September 2, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–21596 Filed 9–7–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2015–0059]

Final Revised Vaccine Information Materials for Serogroup B Meningococcal Vaccine

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA) (42 U.S.C. 300aa–26), CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. On October 14, 2015, CDC published a notice in the **Federal Register** (80 FR 61819) seeking public comments on proposed updated vaccine information materials for meningococcal ACWY and serogroup B meningococcal vaccines. Following review of comments submitted and consultation as required under the law, CDC has finalized the materials for serogroup B meningococcal vaccine. Copies of the final vaccine information materials for serogroup B meningococcal vaccine are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0059). Final updated vaccine information materials for meningococcal ACWY were published in the **Federal Register** on April 20, 2016 (81 FR 23301).

DATES: Beginning no later than December 1, 2016, each health care provider who administers serogroup B meningococcal vaccine to any child or adult in the United States shall provide copies of the relevant vaccine information materials referenced in this notice, in conformance with the August 9, 2016 CDC Instructions for the Use of Vaccine Information Statements prior to providing such vaccinations.

FOR FURTHER INFORMATION CONTACT: Suzanne Johnson-DeLeon (*msj1@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road, NE., Atlanta, Georgia 30329.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella, and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html.*

Revised Vaccine Information Materials

The serogroup B meningococcal vaccine information materials referenced in this notice were developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and healthcare provider organizations. Following consultation and review of comments submitted, the vaccine information materials covering serogroup B meningococcal vaccine have been finalized and are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0059). The Vaccine Information Statement (VIS) is "Serogroup B Meningococcal (MenB) Vaccine: What You Need to Know," publication date August 9, 2016.

With publication of this notice, as of December 1, 2016, all health care providers will be required to provide copies of these updated serogroup B meningococcal vaccine information materials prior to immunization in conformance with CDC's August 9, 2016 Instructions for the Use of Vaccine Information Statements.

Dated: September 1, 2016.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2016–21574 Filed 9–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2015–0029]

Final Revised Vaccine Information Materials for Polio Vaccine

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA) (42 U.S.C. 300aa–26), CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. On March 15, 2016, CDC published a notice in the **Federal Register** (81 FR 13794) seeking public comments on proposed updated vaccine information materials for polio vaccine and varicella vaccine. Following review of comments submitted and consultation as required under the law, CDC has finalized the materials for polio vaccine. Copies of the final vaccine information materials for polio vaccine are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0029). CDC will publish the final vaccine information materials for varicella vaccine when they are completed.

DATES: Beginning no later than November 1, 2016, each health care provider who administers polio vaccine to any child or adult in the United States shall provide copies of the relevant vaccine information materials referenced in this notice, in conformance with the August 9, 2016 CDC Instructions for the Use of Vaccine Information Statements prior to providing such vaccinations.

FOR FURTHER INFORMATION CONTACT: Suzanne Johnson-DeLeon (*msj1@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella, and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html.*

Revised Vaccine Information Materials

The polio vaccine information materials referenced in this notice were developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and healthcare provider organizations.

Following consultation and review of comments submitted, the vaccine information materials covering polio vaccine have been finalized and are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0029). The Vaccine Information Statement (VIS) is "Polio Vaccine: What You Need to Know," publication date July 20, 2016.

With publication of this notice, by November 1, 2016, all health care providers must discontinue use of the previous edition and provide copies of these updated polio vaccine information materials prior to immunization in conformance with CDC's August 9, 2016 Instructions for the Use of Vaccine Information Statements.

Dated: September 1, 2016.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2016–21575 Filed 9–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–0955; Docket No. CDC–2016–0089]

Proposed Data Collections Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as requires by the Paperwork Reduction Act of 1995. This notice invites comments on Early Hearing Detection and Intervention Pediatric Audiology Links to Services (EDHI–PALS)

DATES: Written comments must be received on or before November 7, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0089 by any of the following methods:

- *Federal eRulemaking Portal:* Regulations.gov. Follow the instruction for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulation.gov,* including any personal information provided. For access to the docket to read the background documents or comments received, go to *Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, and each reinstatement of previously approved information collection before submitting the collect to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Early Hearing Detection and Intervention—Pediatric Audiology Links to Service (EHDI–PALS) Survey (OMB No. 0920–0955, Expiration 03/31/2017)—Extension—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Human Development and Disability, located within NCBDDD, promotes the health of babies, children, and adults, with a focus on preventing birth defects and developmental disabilities and optimizing the health outcomes of those with disabilities. Since the passage of the Early Hearing Detection and Intervention (EHDI) Act, 98% of newborn infants are now screened for hearing loss prior to hospital discharge. However, many of these infants have not received needed hearing tests and follow up services after their hospital discharges. The 2013 national average loss to follow-up/loss to documentation rate is at 32%. This rate remains an area of critical concern for state EHDI programs and CDC–EHDI team's goal of timely diagnosis by 3 months of age and intervention by 6 months of age. Many states cite the lack of audiology resources as the main factor behind the high loss to follow-up. To compound the problem, many pediatric audiologists may be proficient evaluating children age 5 and older but are not proficient with diagnosing infants or younger children because children age 5 and younger require a different skill set. There is still no existing literature or database available to help states verify and quantify their states' true follow up capacity until this project went live in 2013.

Meeting since April 2010, the EHDI–PALS workgroup has sought consensus on the loss to follow-up/loss to documentation issue facing the EHDI programs. A survey based on standard of care practice was developed for state EHDI programs to quantify the pediatric audiology resource distribution within their state, particularly audiology facilities that are equipped to provide follow up services for children age five and younger. After three years of data collection, data suggested that children residing in certain regions of the US who were loss to follow up were due to the distance parents had to travel to reach a pediatric audiology facility. For example, parents who reside in western region of Nebraska and Iowa on average have to drive over 100 miles and in Montana over 200 miles to reach a pediatric audiology facility.

CDC is requesting an Office of Management and Budget (OMB) approval to continue collecting audiology facility information from audiologists or facility managers so both parents, physicians and state EHDI programs will have a tool to find where the pediatric audiology facilities are located. This survey will continue to allow the CDC–EHDI team and state EHDI programs to compile a systematic, quantifiable distribution of audiology facilities and the capacity of each facility to provide services for children age five and younger. The data collected will also allow the CDC–EHDI team to analyze facility distribution data to improve technical assistance to state EHDI programs.

There will be no revision done to the survey because the data collected in the past three years has proven to be valuable and appropriate as evidenced by the high usage rate. Consumers have accessed the facility information over 140,000 times as of April 2016. To minimize burden and improve convenience, the survey will continue to be available via a secure password protected Web site. Placing the survey on the internet ensures convenient, on-demand access by the audiologists. Financial cost is minimized because no mailing fee will be associated with sending or responding to this survey.

EHDI–PALS currently has 1,005 facilities in the database since the beginning of the data collection. All 1,005 facilities' contact will receive a brief email from the University of Maine to remind them to review their survey answers. It is estimated that approximately 800 audiologists will do so. It takes approximately two minutes per person to review the survey answers. Both the American Speech-Language-Hearing Association and the American Academy of Audiology are members of the EHDI–PALS workgroup and will continue to disseminate a request through association e-newsletters and e-announcements to all audiologists who provide services to children younger than five years of age to complete the EHDI–PALS survey. It is estimated that potentially an additional 400 new audiologists will read through the purpose statement located on page one of the survey to decide whether or not to complete the survey. This will take one minute per person. It is estimated that 200 audiologists will complete the survey which will average nine minutes per respondent. The nine minutes calculation is based on a previous timed pre-test with six volunteer audiologists. There are no costs to respondents other than their time.

The total burden hours are 64.

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Annual Survey Review	800	1	2/60	27
Survey Introduction	400	1	1/60	7
Survey	200	1	9/60	30
Total	1,400			64

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–21609 Filed 9–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2016–0015]

Final Revised Vaccine Information Materials for Hepatitis A and Hepatitis B Vaccines

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA) (42 U.S.C. 300aa–26), CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. On February 8, 2016, CDC published a notice in the **Federal Register** (81 FR 6520) seeking public comments on proposed updated vaccine information materials for hepatitis A and hepatitis B vaccines. Following review of comments submitted and consultation as required under the law, CDC has finalized the materials for hepatitis A and hepatitis B vaccines. Copies of the final vaccine information materials for hepatitis A and hepatitis B vaccines are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2016–0015).

DATES: Beginning no later than November 1, 2016, each health care provider who administers hepatitis A or hepatitis B vaccine to any child or adult in the United States shall provide copies of the relevant vaccine information materials referenced in this notice, in conformance with the August 9, 2016 CDC Instructions for the Use of Vaccine Information Statements prior to providing such vaccinations.

FOR FURTHER INFORMATION CONTACT: Suzanne Johnson-DeLeon (*msj1@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella, and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html.*

Revised Vaccine Information Materials

The hepatitis A and hepatitis B vaccine information materials referenced in this notice were developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and healthcare provider organizations. Following consultation and review of comments submitted, the vaccine information materials covering hepatitis A and hepatitis B vaccines have been finalized and are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2016–0015). The Vaccine Information Statements (VIS) are “Hepatitis A Vaccine: What You Need to Know” and “Hepatitis B Vaccine: What You Need to Know,” publication date July 20, 2016.

With publication of this notice, by November 1, 2016, all health care providers must discontinue use of the previous edition of each and provide copies of these updated hepatitis A and hepatitis B vaccine information materials prior to immunization in conformance with CDC's August 9, 2016 Instructions for the Use of Vaccine Information Statements.

Dated: September 1, 2016.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2016–21573 Filed 9–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10287]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 7, 2016.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ________, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10287 Medicare Quality of Care Complaint Form

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Quality of Care Complaint Form; *Use:* In accordance with Section 1154(a)(14) of the Social Security Act, Quality Improvement Organizations (QIOs) are required to conduct appropriate reviews of all written complaints submitted by beneficiaries concerning the quality of care received. The Medicare Quality of Care Complaint Form will be used by Medicare beneficiaries to submit quality of care complaints. This form will establish a standard form for all beneficiaries to utilize and ensure pertinent information is obtained by QIOs to effectively process these complaints. *Form Number:* CMS–10287 (OMB control number: 0938–1102); *Frequency:* Occasionally; *Affected Public:* Individuals and Households; *Number of Respondents:* 3,500; *Total Annual Responses:* 3,500; *Total Annual Hours:* 583. (For policy questions regarding this collection contact Winsome Higgins at 410–786–1835.)

Dated: September 2, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–21628 Filed 9–7–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2513]

ICH S3A Guidance: Note for Guidance on Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies—Questions and Answers; International Council for Harmonisation; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance entitled "ICH S3A Guidance: Note for Guidance on Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies—Questions and Answers." The draft guidance was prepared under the auspices of the International Council for Harmonisation (ICH), formerly the International Conference on Harmonisation. This question and answer (Q&A) guidance provides additional information to facilitate interpretation of the "S3A Guidance: The Assessment of Systemic Exposure in Toxicity Studies" (S3A guidance), especially to address the benefit and use of microsampling techniques in main study animals. The Q&A guidance is intended to provide points to consider before incorporating the microsampling method in toxicokinetic studies, and acknowledges the benefits (and some limitations) of the use of microsampling.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 7, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2016–D–2513 for "ICH S3A Guidance: Note for Guidance on Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies—Questions and Answers; International Council for Harmonisation; Draft Guidance for Industry; Availability."

Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: *Regarding the guidance:* Aisar Atrakchi, Center for Drug Evaluation and Research, Food and Drug Administration, Bldg. 22, Rm. 4118, Silver Spring, MD 20993–0002, 301–796–1036; or Anne Pilaro, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 4025, Silver Spring, MD 20993–0002, 240–402–8341.

Regarding the ICH: Amanda Roache, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1128, Silver Spring, MD 20993–0002, 301–796–4548.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory Agencies.

ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products for human use among regulators around the world. The six founding members of the ICH are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; and the Pharmaceutical Research and Manufacturers of America. The Standing Members of the ICH Association include Health Canada and Swissmedic. Any party eligible as a Member in accordance with the ICH Articles of Association can apply for membership in writing to the ICH Secretariat. The ICH Secretariat, which coordinates the preparation of documentation, operates as an international nonprofit organization and is funded by the Members of the ICH Association.

The ICH Assembly is the overarching body of the Association and includes representatives from each of the ICH members and observers. In May 2016, the ICH Assembly endorsed the draft guidance entitled "ICH S3A Guidance: Note for Guidance on Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies—Questions and Answers" and agreed that the guidance should be made available for public comment. The draft guidance is the product of the Safety Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Safety Expert Working Group.

The draft Q&A guidance provides additional information to facilitate interpretation of the S3A guidance. The S3A guidance has been successfully implemented since 1994, and in recent years, analytical method sensitivity has improved, allowing microsampling techniques to be used in toxicokinetic assessment. This Q&A guidance focuses on points to consider before incorporating the microsampling method in toxicokinetic studies, acknowledges the benefits (and some limitations) of the use of microsampling for assessing toxicokinetics in main study animals, and acknowledges the overall important contribution of microsampling to the 3Rs benefits (Replacement, Reduction, and Refinement), by reducing or eliminating the need for toxicokinetic satellite animals.

The draft Q&A guidance is intended to apply to the majority of pharmaceuticals and biopharmaceuticals; however, for all types of molecules, consideration should be given on a case-by-case basis as to whether the sensitivity of the measurement method is appropriate with the small sample volumes available.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ICH "S3A Guidance: Note for Guidance on Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies—Questions and Answers." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: September 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21552 Filed 9–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0557]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Postmarket Surveillance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 11, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0449. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Postmarket Surveillance—21 CFR Part 822—OMB Control Number 0910–0449—Extension

Section 522 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l) authorizes FDA to require a manufacturer to conduct postmarket surveillance (PS) of any device that meets the criteria set forth in the statute. The PS regulation establishes procedures that FDA uses to approve and disapprove PS plans. The regulation provides instructions to manufacturers so they know what information is required in a PS plan submission. FDA reviews PS plan submissions in accordance with part 822 (21 CFR part 822) in §§ 822.15 through 822.19 of the regulation, which describe the grounds for approving or disapproving a PS plan. In addition, the PS regulation provides instructions to manufacturers to submit interim and final reports in accordance with § 822.38. Respondents to this collection of information are those manufacturers who require postmarket surveillance of their products.

In the **Federal Register** of April 28, 2016 (81 FR 25409), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Postmarket surveillance submission (§§ 822.9 and 822.10)	131	1	131	120	15,720
Changes to PS plan after approval (§ 822.21)	15	1	15	40	600
Changes to PS plan for a device that is no longer marketed (§ 822.28)	80	1	80	8	640
Waiver (§ 822.29)	1	1	1	40	40
Exemption request (§ 822.30)	16	1	16	40	640
Periodic reports (§ 822.38)	131	3	393	40	15,720
Total					33,360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Explanation of Reporting Burden Estimate: The burden captured in table 1 of this document is based on the data from FDA's internal tracking system. Sections 822.26, 822.27, and 822.34 do not constitute information collection subject to review under the PRA because it entails no burden other than that necessary to identify the respondent, the date, the respondents address, and the nature of the instrument (See 5 CFR 1320.3(h)(1)).

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Manufacturer records (§ 822.31)	131	1	131	20	2,620
Investigator records (§ 822.32)	393	1	393	5	1,965
Total					4,585

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Explanation of Recordkeeping Burden Estimate: FDA expects that at least some of the manufacturers will be able to satisfy the PS requirement using information or data they already have. For purposes of calculating burden, however, FDA has assumed that each PS order can only be satisfied by a 3-year clinically based surveillance plan, using three investigators. These estimates are based on FDA's knowledge and experience with postmarket surveillance.

Dated: September 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21554 Filed 9–7–16; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–P–1037]

Determination That PREVACID IV (Lansoprazole) Intravenous Injection, 30 Milligrams/Vial, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that PREVACID IV (lansoprazole) intravenous injection, 30 milligrams (mg)/vial, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for lansoprazole intravenous injection, 30 mg/vial, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Bronwen Blass, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224, Silver Spring, MD 20993–0002, 301–796–5092, *Bronwen.blass@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is known generally as the "Orange Book." Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, is the subject of NDA 021566, held by Takeda Pharmaceuticals North America, Inc., and initially approved on May 27, 2004. The Indications and Usage section of the PREVACID IV labeling states the following: "When patients are unable to take the oral formulations, PREVACID I.V. for Injection is indicated as an alternative for the short-term treatment (up to 7 days) of all grades of erosive esophagitis. Once the patient is able to take medications orally, therapy can be switched to an oral formulation of PREVACID for a total of 6 to 8 weeks. The safety and efficacy of PREVACID I.V. for Injection as an initial treatment of erosive esophagitis have not been demonstrated. Refer to full prescribing information for the oral formulations of PREVACID."

In a letter dated February 5, 2007, Takeda Pharmaceuticals North America, Inc. notified FDA that PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, was being discontinued, and FDA moved the drug product to the "Discontinued Drug Product List" section of the Orange Book.

Rose Zhao submitted a citizen petition dated March 18, 2016 (Docket No. FDA–2016–P–1037), under 21 CFR 10.30, requesting that the Agency determine whether PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to PREVACID IV (lansoprazole) intravenous injection, 30 mg/vial, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: September 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21551 Filed 9–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–2544]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device: Current Good Manufacturing Practice Quality System Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on recordkeeping requirements related to the medical devices current good manufacturing practice (CGMP) quality system (QS) regulation (CGMP/QS regulation).

DATES: Submit either electronic or written comments on the collection of information by November 7, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2016–N–2544 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device: Current Good Manufacturing Practice Quality System Regulations."

Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices: Current Good Manufacturing Practice Quality System Regulation—21 CFR Part 820—OMB Control Number 0910–0073—Extension

Under section 520(f) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360j(f)), the Secretary of the Department of Health and Human Services has the authority to prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a device, but not including an evaluation of the safety and effectiveness of a device), packing, storage, and installation of a device conform to CGMP, as described in such regulations, to assure that the device will be safe and effective and otherwise in compliance with the FD&C Act.

The CGMP/QS regulation implementing authority provided by this statutory provision is found under part 820 (21 CFR part 820) and sets forth basic CGMP requirements governing the design, manufacture, packing, labeling, storage, installation, and servicing of all finished medical devices intended for human use. The authority for this regulation is covered under sections 501, 502, 510, 513, 514, 515, 518, 519, 520, 522, 701, 704, 801, and 803 of the FD&C Act (21 U.S.C. 351, 352, 360, 360c, 360d, 360e, 360h, 360i, 360j, 360l, 371, 374, 381, and 383). The CGMP/QS regulation includes requirements for purchasing and service controls, clarifies recordkeeping requirements for device failure and complaint investigations, clarifies requirements for verifying/validating production processes and process or product changes, and clarifies requirements for product acceptance activities quality data evaluations and corrections of nonconforming product/quality problems.

Requirements are compatible with specifications in the international standards "ISO 9001: Quality Systems Model for Quality Assurance in Design/Development, Production, Installation, and Servicing." The CGMP/QS information collections will assist FDA inspections of manufacturers for compliance with QS requirements encompassing design, production, installation, and servicing processes.

Section 820.20(a) through (e) requires management with executive responsibility to establish, maintain, and/or review the following topics: (1) The quality policy, (2) the organizational structure, (3) the quality plan, and (4) the quality system procedures of the organization. Section 820.22 requires the conduct and documentation of QS audits and re-audits. Section 820.25(b) requires the establishment of procedures to identify training needs and documentation of such training.

Section 820.30(a)(1) and (b) through (j) requires, in respective order, the establishment, maintenance, and/or documentation of the following topics: (1) Procedures to control design of class III and class II devices and certain class I devices as listed therein; (2) plans for design and development activities and updates; (3) procedures identifying, documenting, and approving design input requirements; (4) procedures defining design output, including acceptance criteria, and documentation of approved records; (5) procedures for formal review of design results and documentation of results in the design history file (DHF); (6) procedures for verifying device design and documentation of results and approvals in the DHF; (7) procedures for validating device design, including documentation of results in the DHF; (8) procedures for translating device design into production specifications; (9) procedures for documenting, verifying, and validating approved design changes before implementation of changes; and (10) the records and references constituting the DHF for each type of device.

Section 820.40 requires manufacturers to establish and maintain procedures controlling approval and distribution of required documents and document changes. Section 820.40(a) and (b) requires the establishment and maintenance of procedures for the review, approval, issuance, and documentation of required records (documents) and changes to those records.

Section 820.50(a) and (b) requires the establishment and maintenance of procedures and requirements to ensure service and product quality, records of acceptable suppliers, and purchasing data describing specified requirements for products and services.

Sections 820.60 and 820.65 require, respectively, the establishment and maintenance of procedures for identifying all products from receipt to distribution and for using control numbers to track surgical implants and life-sustaining or supporting devices and their components.

Section 820.70(a) through (e), (g)(1) through (g)(3), (h), and (i) requires the establishment, maintenance, and/or documentation of the following topics: (1) Process control procedures; (2) procedures for verifying or validating changes to specification, method, process, or procedure; (3) procedures to control environmental conditions and inspection result records; (4) requirements for personnel hygiene; (5) procedures for preventing contamination of equipment and products; (6) equipment adjustment, cleaning, and maintenance schedules; (7) equipment inspection records; (8) equipment tolerance postings, procedures for utilizing manufacturing materials expected to have an adverse effect on product quality; and (9) validation protocols and validation records for computer software and software changes.

Sections 820.72(a), (b)(1), and (b)(2); and 820.75(a) through (c) require, respectively, the establishment, maintenance, and/or documentation of the following topics: (1) Equipment calibration and inspection procedures; (2) national, international, or in-house calibration standards; (3) records that identify calibrated equipment and next calibration dates; (4) validation procedures and validation results for processes not verifiable by inspections and tests; (5) procedures for keeping validated processes within specified limits; (6) records for monitoring and controlling validated processes; and (7) records of the results of revalidation where necessitated by process changes or deviations.

Sections 820.80(a) through (e) and 820.86, respectively, require the establishment, maintenance, and/or documentation of the following topics: (1) Procedures for incoming acceptance by inspection, test, or other verification; (2) procedures for ensuring that in process products meet specified requirements and the control of product until inspection and tests are completed; (3) procedures for, and records that show, incoming acceptance or rejection is conducted by inspections, tests or other verifications; (4) procedures for, and records that show, finished devices meet acceptance criteria and are not distributed until device master record (DMR) activities are completed; (5) records in the device history record (DHR) showing acceptance dates, results, and equipment used; and (6) the acceptance/rejection identification of products from receipt to installation and servicing.

Sections 820.90(a), (b)(1), and (b)(2) and 820.100 require, respectively, the establishment, maintenance and/or documentation of the following topics: (1) Procedures for identifying, recording, evaluating, and disposing of nonconforming product; (2) procedures for reviewing and recording concessions made for, and disposition of, nonconforming product; (3) procedures for reworking products, evaluating possible adverse rework effect and recording results in the DHR; (4) procedures and requirements for corrective and preventive actions, including analysis, investigation, identification and review of data, records, causes, and results; and (5) records for all corrective and preventive action activities.

Section 820.100(a)(1) through (a)(7) states that procedures and requirements shall be established and maintained for corrective/preventive actions, including the following: (1) Analysis of data from process, work, quality, servicing records, investigation of nonconformance causes; (2) identification of corrections and their effectiveness; (3) recording of changes made; and (4) appropriate distribution and managerial review of corrective and preventive action information. Section 820.120 states that manufacturers shall establish/maintain procedures to control labeling storage/application; and examination/release for storage and use, and document those procedures.

Sections 820.120(b) and (d); 820.130; 820.140; 820.150(a) and (b); 820.160(a) and (b); and 820.170(a) and (b), respectively, require the establishment, maintenance, and/or documentation of the following topics: (1) Procedures for controlling and recording the storage, examination, release, and use of labeling; (2) the filing of labels/labeling used in the DHR; (3) procedures for controlling product storage areas and receipt/dispatch authorizations; (4) procedures controlling the release of products for distribution; (5) distribution records that identify consignee, product, date, and control numbers; and (6) instructions, inspection and test procedures that are made available, and the recording of results for devices requiring installation.

Sections 820.180(b) and (c); 820.181(a) through (e); 820.184(a) through (f); and 820.186 require, respectively, the maintenance of records that are: (1) Retained at prescribed site(s), made readily available and accessible to FDA, and retained for the device's life expectancy or for 2 years; (2) contained or referenced in a DMR consisting of device, process, quality assurance, packaging and labeling, and installation, maintenance, and servicing specifications and procedures; (3) contained in a DHR and demonstrate the manufacture of each unit, lot, or batch of product in conformance with DMR and regulatory requirements include manufacturing and distribution dates, quantities, acceptance documents, labels and labeling, and control numbers; and (4) contained in a quality system record, consisting of references, documents, procedures, and activities not specific to particular devices.

Sections 820.198(a) through (c); and 820.200(a) through (d), respectively, require the establishment, maintenance, and/or documentation of the following topics: (1) Complaint files and procedures for receiving, reviewing, and evaluating complaints; (2) complaint investigation records identifying the device, complainant, and relationship of the device to the incident; (3) complaint records that are reasonably accessible to the manufacturing site or at prescribed sites; (4) procedures for performing and verifying that device servicing requirements are met and that service reports involving complaints are processed as complaints; and (5) service reports that record the device, service activity, and test and inspection data.

Section 820.250 requires the establishment and maintenance of procedures to identify valid statistical techniques necessary to verify process and product acceptability; and sampling plans, when used, which are written and based on valid statistical rationale; and procedures for ensuring adequate sampling methods.

The CGMP/QS regulation added design and purchasing controls, modified previous critical device requirements, revised previous validation and other requirements, and harmonized device CGMP requirements with QS specifications in the international standard "ISO 9001: Quality Systems Model for Quality Assurance in Design/Development, Production, Installation, and Servicing." The rule does not apply to manufacturers of components or parts of finished devices, or to manufacturers of human blood and blood components subject to 21 CFR part 606. With respect to devices classified in class I, design control requirements apply only to class I devices listed in § 820.30(a)(2) of the regulation. The rule imposes burden upon: (1) Finished device manufacturer firms, which are subject to all recordkeeping requirements; (2) finished device contract manufacturers, specification developers; and (3) re-packer, re-labelers, and contract sterilizer firms, which are subject only to requirements applicable to their activities. In addition, remanufacturers of hospital single-use devices are now considered to have the same requirements as manufacturers in regard to the regulation.

The establishment, maintenance, and/or documentation of procedures, records, and data required by the regulation assists FDA in determining whether firms are in compliance with CGMP requirements, which are intended to ensure that devices meet their design, production, labeling, installation, and servicing specifications and, thus are safe, effective, and suitable for their intended purpose. In particular, compliance with CGMP design control requirements should decrease the number of design-related device failures that have resulted in deaths and serious injuries.

The CGMP/QS regulation applies to approximately 24,738 respondents. A query of the Agency's registration and listing database shows that approximately 13,294 domestic and 11,444 foreign establishments are respondents to this information collection.[1] Respondents to this collection have no reporting activities, but must make required records available for review or copying during FDA inspection. Except for manufacturers, not every type of firm is subject to every CGMP/QS requirement. For example, all are subject to Quality Policy (§ 820.20(a)), Document Control (§ 820.40), and other requirements, whereas only manufacturers and specification developers are subject to subpart C, Design Controls. The PRA burden placed on the 24,738 establishments is an average burden.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Quality policy—820.20(a)	24,738	1	24,738	7	173,166
Organization—820.20(b)	24,738	1	24,738	4	98,952
Management review—820.20(c)	24,738	1	24,738	6	148,428
Quality planning—820.20(d)	24,738	1	24,738	10	247,380
Quality system procedures—820.20(e)	24,738	1	24,738	10	247,380
Quality audit—820.22	24,738	1	24,738	33	816,354
Training—820.25(b)	24,738	1	24,738	13	321,594
Design procedures—820.30(a)(1)	24,738	1	24,738	2	49,476
Design and development planning—820.30(b)	24,738	1	24,738	6	148,428
Design input—820.30(c)	24,738	1	24,738	2	49,476
Design output—820.30(d)	24,738	1	24,738	2	49,476
Design review—820.30(e)	24,738	1	24,738	23	568,974
Design verification—820.30(f)	24,738	1	24,738	37	915,306
Design validation—820.30(g)	24,738	1	24,738	37	915,306
Design transfer—820.30(h)	24,738	1	24,738	3	74,214
Design changes—820.30(i)	24,738	1	24,738	17	420,546
Design history file—820.30(j)	24,738	1	24,738	3	74,214
Document controls—820.40	24,738	1	24,738	9	222,642
Documentation approval and distribution and document changes—820.40(a) and (b)	24,738	1	24,738	2	49,476

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[1] Based on fiscal year 2015 data.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Purchasing controls—820.50(a)	24,738	1	24,738	22	544,236
Purchasing data—820.50(b)	24,738	1	24,738	6	148,428
Identification—820.60	24,738	1	24,738	1	24,738
Traceability—820.65	24,738	1	24,738	1	24,738
Production and process controls—820.70(a)	24,738	1	24,738	2	49,476
Production and process changes and environmental control—820.70(b) and (c)	24,738	1	24,738	2	49,476
Personnel—820.70(d)	24,738	1	24,738	3	74,214
Contamination control—820.70(e)	24,738	1	24,738	2	49,476
Equipment maintenance schedule, inspection, and adjustment—820.70(g)(1)–(g)(3)	24,738	1	24,738	1	24,738
Manufacturing material—820.70(h)	24,738	1	24,738	2	49,476
Automated processes—820.70(i)	24,738	1	24,738	8	197,904
Control of inspection, measuring, and test equipment—820.72(a)	24,738	1	24,738	5	123,690
Calibration procedures, standards, and records—820.72(b)(1)–(b)(2)	24,738	1	24,738	1	24,738
Process validation—820.75(a)	24,738	1	24,738	3	74,214
Validated process parameters, monitoring, control methods, and data—820.75(b)	24,738	1	24,738	1	24,738
Revalidation—820.75(c)	24,738	1	24,738	1	24,738
Acceptance activities—820.80(a)–(e)	24,738	1	24,738	5	123,690
Acceptance status—820.86	24,738	1	24,738	1	24,738
Control of nonconforming product—820.90(a)	24,738	1	24,738	5	123,690
Nonconforming product review/disposition procedures and rework procedures—820.90(b)(1)–(b)(2)	24,738	1	24,738	5	123,690
Procedures for corrective/preventive actions—820.100(a)(1)–(a)(7)	24,738	1	24,738	12	296,856
Corrective/preventive activities—820.100(b)	24,738	1	24,738	1	24,738
Labeling procedures—820.120(b)	24,738	1	24,738	1	24,738
Labeling documentation—820.120(d)	24,738	1	24,738	1	24,738
Device packaging—820.130	24,738	1	24,738	1	24,738
Handling—820.140	24,738	1	24,738	6	148,428
Storage—820.150(a) and (b)	24,738	1	24,738	6	148,428
Distribution procedures and records—820.160(a) and (b)	24,738	1	24,738	1	24,738
Installation—820.170	24,738	1	24,738	2	49,476
Record retention period—820.180(b) and (c)	24,738	1	24,738	2	49,476
Device master record—820.181	24,738	1	24,738	1	24,738
Device history record—820.184	24,738	1	24,738	1	24,738
Quality system record—820.186	24,738	1	24,738	1	24,738
Complaint files—820.198(a), (c), and (g)	24,738	1	24,738	5	123,690
Servicing procedures and reports—820.200(a) and (d)	24,738	1	24,738	3	74,214
Statistical techniques procedures and sampling plans—820.250	24,738	1	24,738	1	24,738
Total	....	....	....	....	8,410,920

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21553 Filed 9–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Advisory Committee; Oncologic Drugs Advisory Committee, Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Oncologic Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Oncologic Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until September 1, 2018.

DATES: Authority for the Oncologic Drugs Advisory Committee will expire on September 1, 2016, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Lauren Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, *ODAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under 41 CFR 102–3.65 and approval by the Department of Health and Human Services pursuant to 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the Oncologic Drugs Advisory Committee. The committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Oncologic Drugs Advisory Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which the Food and Drug Administration has regulatory responsibility.

The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer and makes appropriate recommendations to the Commissioner of Food and Drugs.

The Committee shall consist of a core of 13 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of general oncology, pediatric oncology, hematologic oncology, immunology oncology, biostatistics, and other related professions. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.

Further information regarding the most recent charter and other information can be found at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/OncologicDrugsAdvisoryCommittee/ucm107395.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: September 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21550 Filed 9–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: National Advisory Council on the National Health Service Corps (NACNHSC).

Dates and Times: September 28, 2016 12:00 p.m.–3:30 p.m. EST.

Place: U.S. Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, Maryland 20857, Conference Call Format.

Status: This advisory council meeting will be open to the public.

Purpose: The NACNHSC makes recommendations with respect to their responsibilities under Subpart II, Part D of Title III of the Public Health Service Act, as amended (National Health Service Corps and Health Professional Shortage Area Designations), and shall review and comment upon regulations promulgated by the Secretary under Subpart II.

Agenda: The NACNHSC has concluded its discussion for Fiscal Year 2016 and will present its formal recommendations for each priority area. The Council will discuss policy recommendations for the National Health Service Corps scholarship and loan repayment programs with respect to clinician recruitment and retention in underserved communities throughout the service areas of the NHSC, telehealth, Medication Assisted Treatment (MAT) certification, mentorship, and NHSC discipline expansion, specifically for mental and behavioral, and oral health providers.

The content of the agenda is subject to change prior to the meeting. The NACNHAC final agenda will be available 3 days in advance of the meeting at *http://nhsc.hrsa.gov/corpsexperience/aboutus/nationaladvisorycouncil/meetingsummaries/index.html.*

SUPPLEMENTARY INFORMATION: Further information regarding the NACNHSC, including the roster of members and past meetings summaries, is available at *http://nhsc.hrsa.gov/corpsexperience/aboutus/nationaladvisorycouncil/index.html.* Members of the public and interested parties may request to participate in the meeting by contacting Monica-Tia Bullock via email at *MBullock@hrsa.gov.*

- The conference call-in number is 1–800–619–2521. Passcode: 9271697.
- The webinar link is *https://hrsa.connectsolutions.com/nacnhsc.*

Public participants may submit written statements in advance of the scheduled meeting. If you would like to provide oral public comment during the meeting please register with Monica-Tia Bullock at *MBullock@hrsa.gov.* Public comment will be limited to 3 minutes per speaker. Statements and comments can be addressed to Monica-Tia Bullock by emailing her at *MBullock@hrsa.gov.*

In addition, please be advised that committee members are given copies of all written statements submitted from the public. Any further public participation will be solely at the discretion of the Chair, with approval of the DFO. Registration through the designated contact for the public comment session is required. Individuals who need reasonable accommodations should contact Monica-Tia Bullock at least 10 days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Anyone requesting information regarding the NACNHSC should contact CAPT Jeanean Willis-Marsh, Director, Division of National Health Service Corps, Bureau of Health Workforce, Health Resources and Services Administration, in one of three ways: (1) Send a request to the following address: CAPT Jeanean Willis-Marsh, Director, Division of National Health Service Corps, Bureau of Health Workforce, Health Resources and Services Administration, 5600 Fishers Lane, Room 14N108, Rockville, Maryland 20857; (2) call (301) 443–4494; or (3) send an email to *jwillis@hrsa.gov.*

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–21581 Filed 9–7–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Delegation of Authorities

Notice is hereby given that I have delegated to the Commissioner of Food and Drugs (the Commissioner) the authorities vested in the Secretary of the Department of Health and Human Services under sections 102(b)(2), (c); 103(b), (c), (d), (h); 104; 105(b); 106(b), (c); 113(b); 114(d); 115; 201(c); 202(b); 204; 205(b)(2), (c); 206(b); 207(b); 304(b); 305; 306(b); 308; and 309 of the FDA

Food Safety Modernization Act (FSMA or the Act), which relate to the functions of the Food and Drug Administration.

This authority may be redelegated. This authority will be exercised in accordance with the Department of Health and Human Services applicable policies, procedures, guideline, and regulations.

I hereby ratify and affirm any actions taken the Commissioner, or the Commissioner's subordinates, that involved the exercise of the authority delegated herein prior to the effective date of this delegation.

This delegation is effective upon date of signature.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2016–21504 Filed 9–7–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: October 5, 2016.

Time: 10:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 4H200A/B, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5026, *haririmf@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 2, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21616 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cellular Signaling and Regulatory Systems Study Section, September 29, 2016, 08:00 a.m. to September 29, 2017, 06:00 p.m., Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on August 31, 2016, 81 FR PG 60010.

The end date is September 29, 2016 instead of September 29, 2017. The meeting location remains the same. The meeting is closed to the public.

Dated: September 1, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21514 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Training Grants.

Date: October 18, 2016.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeannette L. Johnson, Ph.D., National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892, 301–402–7705, *JohnsonJ9@NIA.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 1, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21516 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Announcement of Requirements and Registration for "Antimicrobial Resistance Rapid, Point-of-Need Diagnostic Test" Challenge

Authority: 15 U.S.C. 3719.

SUMMARY: Through the "Antimicrobial Resistance Rapid, Point-of-Need Diagnostic Test" Challenge (the "Challenge"), the National Institutes of Health (NIH) and the Biomedical Advanced Research and Development Authority (BARDA) of the Office of the Assistant Secretary for Preparedness and Response (ASPR) are searching for novel and innovative *in vitro* diagnostic tests that would rapidly inform clinical treatment decisions and be of potential significant clinical and public health utility to combat the development and spread of antibiotic resistant bacteria. Tests of interest will provide novel, innovative solutions for use in inpatient and/or outpatient settings. The goal of the challenge is to identify a diagnostic test that when utilized would lead to more rapid clinical decision making such that antibiotic use and/or outcomes of patients infected with resistant pathogens are fundamentally improved compared to current standard of care, and/or reduce transmission of resistant pathogens such that population infection rates significantly decrease. The Challenge competition seeks to incentivize a broad range of scientists, engineers, and innovators to develop diagnostic tests that would enable health care providers to make more informed decisions on appropriate antibiotic use and infection prevention.

This Challenge, structured in three steps, will complement existing BARDA and NIH research portfolios by reaching

out to a diverse population of innovators and solvers, including not only those from academic institutions, but also those from research and development communities in the private sector and others who are outside biomedical disciplines. The NIH and the BARDA believe this Challenge will stimulate investment from both public and private sectors in rapid, point-of-need *in vitro* diagnostic assay research and product development, which, in turn, could lead to the development of more sensitive, accurate, robust, and cost-effective assay approaches and devices for clinical diagnosis.

DATES:

Step 1 Submission period begins: September 8, 2016.
Step 1 Submission period ends: January 9, 2017, 11:59 p.m. ET
Step 1 Judging Period: January 10, 2017, to March 26, 2017
Step 1 Up to 20 highest ranked proposals Semi-finalists Announced: March 27, 2017
Step 2 Submission period begins: March 28, 2017
Step 2 Submission period ends: September 4, 2018, 11:59 p.m. ET
Step 2 Judging Period: September 5, 2018–November 30, 2018
Step 2 Up to 10 Semi-finalists Announced: December 3, 2018
Step 3 Submission period begins: December 4, 2018
Step 3 Submission period ends: January 3, 2020, 11:59 p.m. ET
Step 3 Judging Period: May 1, 2020–July 1, 2020
Step 3 Winner(s) Announced: July 31, 2020

The NIH and the BARDA may shorten the submission period for Steps 2 and 3 and adjust dates for judging and winner(s) announcement if the Step 1 winners' feasibility assessments suggest shorter Step 2 and 3 submission periods are possible. The NIH and the BARDA will announce any changes to the timeline by amending this **Federal Register** notice no later than January 3, 2017. Administrative aspects of this Challenge will be managed by Capital Consulting Corporation.

FOR FURTHER INFORMATION CONTACT: Robert W. Eisinger, Ph.D., NIH, 301–496–2229 or by email *robert.eisinger@nih.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Authority to Conduct the Challenge: This Challenge is consistent with and advances the mission of the Department of Health and Human Services to identify and support research that represents important areas of emerging scientific opportunities, rising public health challenges, or knowledge gaps that deserve special emphasis. The NIH and BARDA are conducting this competition under the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358), codified at 15 U.S.C. 3719.

Subject of Challenge: On September 18, 2014, the President issued *Executive Order 13676* on Combating Antibiotic-Resistant Bacteria, and announced the Administration would hold the Antimicrobial Resistance Challenge, as described in the accompanying White House Fact Sheet. The development and use of rapid, point-of-need, and innovative diagnostic tests for identification and characterization of resistant bacteria was a goal identified in the National Strategy for Combating Antibiotic-Resistant Bacteria released in September 2014 and addressed in the National Action Plan for Combating Antibiotic-Resistant Bacteria released in March 2015.

In conformance with the above plans and directives, the NIH and the BARDA are sponsoring a Challenge competition, with the Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC) contributing technical and regulatory expertise to develop the award evaluation process.[1]

There are two clinical scenarios in which a diagnostic test is expected to have a significant impact on antibiotic stewardship:

(1) *Outpatient setting.* Outpatient settings include physician offices, clinics, urgent care centers, and emergency rooms, as these offer healthcare services without hospital admission. These settings are often the first point of contact between patients and providers and play an increasingly important role in the delivery of healthcare services. Providers in this setting often need to make decisions on the use of antibiotics based on immediately observable information. Therefore the ability to rapidly determine if a patient needs antibiotic therapy, and which antibiotic would be efficacious to treat the infection using clinically relevant samples is of primary importance.

(2) *Inpatient setting.* Inpatient settings include hospitals and other settings in which patients are admitted for more than 24 hours. Patients admitted with serious infections such as sepsis and pneumonia require prompt bacterial detection, identification, and susceptibility for selecting appropriate antibiotic treatment. The ability to differentiate among many bacterial strains using many different sample types is critical. Additionally, hospital-acquired infections are a major concern in these settings, and the ability to determine if patients are infected with drug resistant microorganisms is critical for both treatment and infection control.

Currently available *in vitro* diagnostics have not sufficiently addressed the needs in each of these settings. Therefore a diagnostic that could advance the state-of-the-art in a reliable, cost-effective way would provide the healthcare community a significant advantage in combating antibiotic resistance. An additional benefit of an *in vitro* diagnostic would be to facilitate clinical trials for new antibacterial products by allowing enrollment of patient populations with specific infections, thus advancing the development of new antibacterial agents.

In this Challenge, the NIH and the BARDA are seeking proposals for the development of new, innovative, accurate, and cost-effective *in vitro* diagnostic tests that would rapidly inform clinical treatment decisions and be of significant clinical and public health utility to combat the development and spread of antibiotic resistant bacteria.

The prize-winning *in vitro* diagnostic(s) must meet a set of predefined technical criteria and performance characteristics based on the intended use(s), as described further below. Solutions submitted to this Challenge should have the potential to significantly improve clinical decision making compared to the current standard of care. Solutions also should be novel, innovative, rapid, and appropriate for use at the point-of-need. Ultimately the solution should be an *in vitro* diagnostic assay(s) that can:

- Improve antibiotic decision making by health care providers and be effective in reducing inappropriate use of antibiotics
- demonstrate a clinically significant advance in diagnostic test performance and address gaps or deficiencies in current capabilities that may include, but are not limited to:
  - → Ease of use;
  - → time to result;
  - → significant advances in sensitivity and specificity; and
  - → ability to process a broad range of specimen types.

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[1] The NIH has engaged Capital Consulting Corporation to manage certain administrative aspects of this challenge, such as registration, as described below, under 15 U.S.C. § 3719(l).

Solutions describing existing, well-established and/or currently supported approaches, especially commonly used strategies are not of interest unless a compelling case is made that potentially clinically significant, quantifiable advances are achievable and/or the methods and measures are used in unique combinations that have not been previously tested together for the detection/diagnosis of drug resistant bacteria. Examples of breakthroughs in this arena could allow health care providers to:

(1) More rapidly identify/detect the specific etiology drawn from a differential diagnosis of a particular clinical syndrome caused by any of the 18 drug resistant bacteria of highest concern which can be found in Table 3 of the National Action Plan for Combating Antibiotic Resistant Bacteria released in 2015;

(2) more rapidly identify/detect, and characterize antibiotic susceptibility of at least one of the 18 drug resistant bacteria of highest concern which can be found in Table 3; and

(3) detect biomarkers that would inform patient management decisions such as need for antibiotics or severity of infection.

Eligibility Rules for the Challenge

1. *To Participate.* This Challenge is open to any "Solver" where "Solver" is defined as an individual, a group of individuals (*i.e.,* a team), or an entity. Whether singly or as part of a group or entity, each individual participating in the Challenge must be 18 years of age or older. We welcome solutions from individuals, teams, and entities from all U.S. sources, including the public sector, private sector, and nonprofit groups.

Eligibility to participate in Step 2 of the Challenge is not dependent on participation in Step 1 of the Challenge and being selected as a "Step 1 Semi-finalist." If a "Solver" did not participate in Step 1, he/she must follow the requirements listed in the "To Win" section of this announcement in order to submit a solution at Step 2. Step 1 Semi-finalists are any individual, team, and/or entity whose solution received a meritorious rating based on the judging criteria. Eligibility to participate in Step 3 of the challenge is conditioned upon participation in Step 2 of the Challenge and being selected as a "Step 2 Semi-finalist."

2. *Eligibility to Win.* To be eligible to win a prize under this Challenge, the Solver—

- Shall have registered to participate in the Challenge under the rules promulgated by the NIH as published in this Notice.
- Shall submit a letter of intent outlining the proposed *in vitro* diagnostic assay/assay system and its intended use.
- Shall have complied with all the requirements set forth in this Notice.
- In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States; and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States. *Note:* Individuals who are non-U.S. citizens and nonpermanent residents may participate as a member of a team that otherwise satisfies the eligibility criteria, but will not be eligible to win a monetary prize (in whole or in part); however, their participation as part of a winning team, if applicable, may be recognized when results are announced.
- In the case of an individual, he/she may not be an employee of the NIH, ASPR, CDC, or FDA; an individual involved in formulation of the Challenge and/or serving on the technical evaluation panel; any other individual involved with the design, production, execution, distribution, or evaluation of this Challenge; or members of the individual's immediate family (specifically, a parent, step-parent, spouse, domestic partner, child, sibling, or step-sibling).
- An individual, team, or entity that is currently on the Excluded Parties List (*https://www.epls.gov/*) will not be selected as a Semi-finalist or prize winner.
- In the case of an entity, may not be a federal entity; and in the case of an individual, may not be a federal employee acting within the scope of his or her employment.
- Federal employees otherwise permitted to participate in the Challenge shall not work on their submission during assigned duty hours. *Note:* Federal ethical conduct rules may restrict or prohibit federal employees from engaging in certain outside activities, so any federal employee not excluded under the prior paragraph seeking to participate in this Challenge outside the scope of employment should consult his/her agency's ethics official prior to developing a submission.
- HHS employees may not work on their applications or submissions during assigned duty hours. Commissioned Corps officers are excluded from this competition since they are on active duty at all times.
- Federal grantees may compete but may not use federal funds to develop America COMPETES Act challenge applications unless consistent with the purpose of their grant award. If a grantee using federal funds wins the competition, the award needs to be treated as program income for purposes of the original grant in accordance with applicable Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.[2]
- Federal entities are not eligible to compete in a prize competition.
- Federal contractors are eligible to participate, but may not use federal funds from a contract to develop submissions for an America COMPETES Act prize competition or to fund efforts in support of an America COMPETES Act prize competition. Costs associated with such activities are unallowable and are not allocable to government contracts.
- An individual shall *not* be deemed ineligible to win because the individual used federal facilities or consulted with federal employees during the Challenge provided that such facilities and/or employees, as applicable, are made available on an equitable basis to all individuals and teams participating in the Challenge.

All questions regarding the Challenge should be directed to Dr. Robert Eisinger, identified above, and answers will be posted and updated as necessary at the Web site of the Challenge administered for NIH by Capital Consulting Corporation at *http://www.cccinnovationcenter.com/challenges/antimicrobial-resistance-diagnostic-challenge/* under "Frequently Asked Questions." Questions from Solvers that may reveal proprietary information related to solutions under development may be addressed in the Capital Consulting Corporation project room, an online secure and confidential communication forum.

Submission Requirements: The Challenge has three steps (following registration and submission of a Letter of Intent), and specific submissions for each step.

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[2] 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" supersedes OMB Circular A–21, *Cost Principles for Educational Institutions,* OMB Circular A–87, *Cost Principles for State, Local, and Indian Tribe Governments,* OMB Circular A–110, *Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,* and OMB Circular A–122, *Cost Principles for Non-Profit Organizations.*

Step 1 (Theoretical)—Step 1 of the Challenge requires a written proposal that describes a potentially clinically significant, new, innovative, and cost effective, point-of-need *in vitro* diagnostic test for use in either an inpatient or outpatient setting that could allow health care providers to significantly inform clinical treatment decisions and be of significant clinical and public health utility to combat the development and spread of antibiotic resistant bacteria. For example:

(1) More rapidly identify/detect the specific etiology drawn from a differential diagnosis of a particular clinical syndrome caused by any of the 18 drug resistant bacteria of highest concern which can be found in Table 3 of the National Action Plan for Combating Antibiotic Resistant Bacteria released in 2015;

(2) more rapidly identify/detect, and characterize antibiotic susceptibility of at least one of the 18 drug resistant bacteria of highest concern which can be found in Table 3; and

(3) detect biomarkers that would inform patient management decisions such as need for antibiotics or severity of infection.

The Step 1 Submission shall include:

1. A description sufficiently detailed for evaluation of the proposed solution in 10 pages or less including the next 4 bullets, 8.5 x 11 inch page, 10-point or greater Arial, Palatino Linotype, or Georgia font and one inch margins including:

- A one-paragraph executive summary that clearly states the clinically significant concern being addressed and the specific intended use of the proposed diagnostic device;
- A description of the proposed *in vitro* diagnostic, and the development approach, challenges, and risks;
- A "State-of-the-Art" statement that describes: (1) Approaches currently in use (if any); (2) clearly explains how the methods and measures proposed will outpace/outperform current advancements; (3) will provide a useful tool for rapid clinical decision making; and (4) potentially quantifiable improvements beyond existing capabilities;
- A description of how Solvers plan to complete Step 2, including methods and technologies key to implementation. This should include estimated timeframe, supporting precedents, and a feasibility assessment and description of the Solver's ability to execute the proposed solution, including any unique resource(s) that may be needed. If relevant, the assessment of feasibility should also address Protections for Humans Subjects, compliance with policies related to the use of Vertebrate Animals, biosafety issues, and use of methods/technologies covered by patents or other intellectual property protection, as applicable;
- All Step 1 Submitters also will need to provide an Executive Summary for public posting on the AMR Diagnostic Test Challenge Web site. Proprietary information should not be included in the Executive Summary, since this will be accessible to the general public.

2. Optional Appendices describing existing, unpublished experimental data (if available) that support the proposed solution may be included. Please note that while a page limit is not placed on appendices, it is recommended that applicants be concise and include only relevant data in support of the solution. All information that is confidential/proprietary should be so indicated.

Step 2 (Delivery of Prototype and Analytical Data)—All Step 1 Semi-finalists will be eligible to participate as Step 2 Solvers in the second step of the Challenge to produce data generated using their solution and may include analytical and clinical data. In addition, entries will be accepted for Step 2 from Solvers that have not previously entered a submission for Step 1. However, if a Solver did not participate in Step 1, he/she must follow the requirements listed in the "To Win" section of this announcement. Step 2 Solvers will develop the proposed diagnostic solution(s) of Step 1 of the Challenge and submit (in the Step 2 submission) a prototype device and data supporting the ability of the *in vitro* diagnostic device to meet the target product profile (TPP) for analytical and performance characteristics in non-clinical testing (*i.e.,* contrived specimens, panels, etc.), as well as confirmation of analytical performance (*e.g.,* limit of detection, interference, inclusivity, etc.)

Additional details on submission requirements for Step 2 of the Challenge will be available to Step 2 Solvers no later than 30 days after the Step 1 Semi-finalists are announced.

At a minimum, the Step 2 submission shall include:

1. *Execution:* Description of the successful generation of a prototype diagnostic test(s) that is based on the Step 1 solution, which may also include innovations, essential alterations in the original proposed plan, and/or technical or analytical challenges experienced or anticipated. Any changes from the original design (Step 1 solution) should be documented and explained.

2. *Data:* At a minimum, a summary of the analytical performance (limit of detection, inclusivity and exclusivity testing) demonstrated by non-clinical testing (*i.e.,* contrived specimens or panels), and demonstrated progress or plans to achieving the target product profile.

3. *Detection of New Analyte/Biomarker:* The Solvers should provide data to the judges that demonstrate the utility or potential utility of the test for clinical management. The extent and scope of these data are up to the Solver. The judges will assess the strength of these data in projecting the potential impact of the diagnostic test.

Step 3 (Performance testing in CLIA-Certified Laboratories)—All Step 2 Semi-finalists will be eligible to participate in Step 3. Solvers in the third step of the Challenge will have their solutions (prototypes) evaluated in 2 independent CLIA-certified laboratories. The cost for the CLIA-certified laboratory testing will be incurred by the Challenge Sponsor, not the Solvers. This will permit an assessment of the performance of prototype *in vitro* diagnostics confirmed by independent testing. Step 3 Solvers will execute their proposed solution(s) to Step 2 of the Challenge and submit (in the Step 3 submission) sufficient numbers of their solutions (prototype platforms and diagnostic test kits/reagents) for testing. The testing in these two independent laboratories will ensure the solution(s) demonstrate usability, stated time to result, appropriate analytical sensitivity/specificity by non-clinical and/or clinical testing (*i.e.,* contrived specimens or panels of drug resistant bacteria), as well as confirmation of analytical performance (*e.g.,* limit of detection, interference, inclusivity, reproducibility, etc.) reported in the data submitted by solver in Step 2.

Additional details on submission requirements for Step 3 of the Challenge will be available to Step 3 Solvers no later than 30 days after the Step 2 Semi-finalists are announced.

The Step 3 submission requires each semi-finalist to submit:

1. *Project Description:* Detailed description of materials, methods, personnel, resources, and schedule. Any changes from the original design (Step 2 solution) should be documented and explained.

2. *Execution:* The Solvers selected for Phase 3 must provide two prototype instruments and sufficient numbers of the diagnostic test(s) based on the Step 2 solution for testing by the two CLIA-

laboratories, as well as methodology/protocols to perform diagnostic testing using the prototypes.

Registration and Submission Process for Solvers: To register and submit for this Challenge, Solvers may access the registration and submission platform from any of the following:

- Access the *www.challenge.gov* Web site and search for "Antimicrobial Resistance Rapid, Point-of-Need Diagnostic Test."
- Access the Antimicrobial Resistance Rapid, Point-of-Need Diagnostic Test Web site; a registration link for the Challenge can be found on the landing page under "Challenge Description."
- Access the Web site of the Challenge administered for NIH by Capital Consulting Corporation at *http://www.cccinnovationcenter.com/challenges/antimicrobial-resistance-diagnostic-challenge/*.

Amount of the Prize

Step 1: Up to $50,000 per semi-finalist (maximum of 20 semi-finalists)
Step 2: up to $100,000 per semi-finalist (maximum of 10 semi-finalists)
Step 3: equal to or greater than $18,000,000 to be divided among a maximum of 3 awardees based on the number of prizes awarded to Step 1 and 2 semi-finalists from a total pool of $20,000,000.

As determined by the judges, the number of prizes will be determined for the Step 1 and 2 Semi-finalists and Step 3 winner(s) from a total pool of $20,000,000.

The NIH and the BARDA reserve the right to cancel, suspend, and/or modify this Challenge at any time through amendment to this **Federal Register** notice. In addition, the NIH and the BARDA reserve the right to not award any prizes if no solutions are deemed worthy. The award approving official for Step 3 of this Challenge is the Secretary, Department of Health and Human Services (HHS).

Basis upon Which Winners Will Be Evaluated: Solutions for all steps of the Challenge will be evaluated by a Technical Evaluation Panel using the criteria and rating scales describe below. Additionally, the BARDA scientific staff and the NIH scientific staff from the various NIH Institutes and Centers (ICs), including the Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI) of the NIH Office of the Director, will review highly rated solutions for scientific alignment with the National Action Plan for Combating Antibiotic Resistant Bacteria goal for a rapid, point-of-need diagnostic test that has the ability or potential to improve clinical decision making such that antibiotic use and/or outcomes of patients infected with drug resistant pathogens are fundamentally improved compared to current standard of care and/or reduce transmission of drug resistant pathogens. Specific examples could include allowing health care providers to: (1) Rapidly identify/detect one or more of the 18 drug resistant bacteria of highest concern which can be found in Table 3 of the National Action Plan for Combating Antibiotic Resistant Bacteria or (2) detect biomarkers that would inform patient management decisions, such as need for antibiotics or severity of infection.

The Judging Panel will determine which of the diagnostic test solutions are of relevance to the BARDA's and NIH's missions, and the degree of innovation advancing existing clinical diagnostics. Three judges, comprising senior leadership from the BARDA and the NIH, will use the technical and programmatic evaluations to determine the Step 1 semi-finalists, those Solvers in Step 1 who are deemed meritorious; the Step 2 semifinalists, those Solvers in Step 2 who are deemed meritorious; and the Step 3 prize winner(s). Prizes will be approved by the Secretary, Department of Health and Human Services.

Step 1 (Theoretical)—The Technical Evaluation Panel will use the following criteria and rating scales for evaluating proposed solutions with high scores reflecting the mostly highly rated solutions:

1. *Innovation.* Clearly demonstrates novel and innovative technology and/or approaches outpacing the current state-of-the-science.

2. *Clinical significance.* Implementation of the proposed *in vitro* diagnostic test supports improved clinical decision making and thus decreases antibiotic resistance.

3. *Diagnostic Performance.* The proposed *in vitro* diagnostic test is anticipated to have performance characteristics (*e.g.,* sensitivity, specificity) relevant to its intended use and consistent with and support by proposed approaches and prior evidence.

4. *Feasibility.* Likelihood, based on scientific concept, existing data, technological capability, and resources that the proposed *in vitro* diagnostic test can be successful as a commercial diagnostic system.

5. *Time to test result.* The proposed *in vitro* diagnostic test produces actionable results (from the time that a sample is collected from a patient to the time that the result is available to the healthcare provider) relevant to its intended use (inpatient, outpatient, reduction in time compared to existing methods).

6. *Setting and Ease of Use.* The proposed *in vitro* diagnostic test is intended for use in inpatient and/or outpatient settings. The proposed solution should account for: A settings particular availability of equipment and personnel, that will affect what specimens can be collected (*i.e.,* sample matrix), stored, processed, and analyzed; what level of training is required to operate the device; what disposable materials are required; and how dependent the test will be on other types of equipment. These factors may affect an *in vitro* diagnostic test's ease of use or otherwise limit its utility. Plan for advancing to Step 2 of the competition.

Step 2 (Delivery of Prototype and Analytical Data)—Additional details on evaluation criteria will be provided later. Step 2 submissions must provide a clear description of how experiments were conducted (including use of appropriate controls, instrument calibration, etc.), how the data were collected, and how analytical performance was assessed. Step 2 submissions must include all requisite scientific and technical details including materials, methods, protocols, and devices to demonstrate successful execution of the proposed solution. Has test reproducibility been demonstrated? What improvements and/or innovations were implemented above and beyond what was proposed in Step 1?

The Technical Evaluation Panel will use the following criteria and rating scales for evaluating proposed Step 2 solutions, with high scores reflecting the mostly highly rated solutions.

1. *Innovation.* Must be clearly novel and innovative technology representing an advance beyond the current state-of-the-science.

2. *Clinical significance.* Clinical significance of the diagnostic use and likelihood that implementation would contribute to decreasing antibiotic resistance.

3. *Diagnostic Performance.* The performance characteristics (*e.g.,* sensitivity, specificity, positive predictive value, and negative predictive value) required of the proposed *in vitro* diagnostic test in order for it to have significant utility in combating antibiotic resistance.

4. *Feasibility.* Likelihood, based on scientific concept, existing data, technological capability, and resources that the proposal can be successful at the end of Step 3 of this competition. Time to test result. The development of an effective *in vitro* diagnostic test that rapidly produces results (from the time

that a sample is collected from a patient to the time that the result is available to the healthcare provider) relevant to its intended use (inpatient, outpatient, reduction in time compared to existing methods). It is anticipated that all proposals will have a maximum result time of 90 minutes.

5. *Setting and Ease of Use.* The settings or venues in which the proposed point-of-need *in vitro* diagnostic test may be most needed for combating antibiotic resistance. The development of an effective *in vitro* diagnostic test that is easy to use in either an inpatient and/or outpatient setting. The proposed solution should require limited, if any, specimen processing. Test complexity, as assessed by applicability for over-the-counter, outpatient (*i.e.,* CLIA-waived), or hospital-based settings (*i.e.,* moderately complex CLIA laboratories) will be considered. Recognizing that diagnostics often require specialized equipment for sample storage, processing and/or analysis, considerations about how such specialized equipment may affect an *in vitro* diagnostic test's ease of use or otherwise limit its utility.

6. *Sample matrix.* The development of an effective *in vitro* diagnostic test that uses human samples (*e.g.,* blood, urine, sputum, tissue fluid, multiple or other sample specimens).

7. *Throughput.* Methods that describe the ability to process more than one specimen simultaneously.

8. *Data Content.* Methods that promote the collection and integration of multiple types of data (*e.g.,* biochemical, physiologic, morphological, or 'omics-level analyses) on diagnostics for one or more of the 18 drug resistant bacteria referenced previously or differentiates between viral and bacterial infections will be rated more favorably.

Step 3 (Performance testing)—Step 3 submitters must provide the diagnostic device(s), any ancillary devices, procedure for using the device and interpreting the results, and controls for testing. Specimen panels will be provided by the Challenge sponsors.

The Technical Evaluation Panel will use the following criteria and rating scales for evaluating proposed Step 3 solutions, with high scores reflecting the mostly highly rated solutions:

1. Must be clearly novel and innovative technology representing an advance beyond the current state-of-the-science.

2. Likelihood of improving the use of antibiotics in patients.

3. *Diagnostic performance.* The performance characteristics (*e.g.,* sensitivity, specificity, positive predictive value, and negative predictive value) of the *in vitro* diagnostic test using the prototype and likely impact of the performance on utility in combating antibiotic resistance.

4. *Sample matrix.* The development of an effective *in vitro* diagnostic test that uses human samples (*e.g.,* blood, urine, sputum, tissue fluid, multiple or other sample specimens).

5. *Time to test result.* The development of an effective *in vitro* diagnostic test that rapidly produces results. Specifically, what would be the maximum acceptable time-to-result for an *in vitro* diagnostic test to be of significant utility (*i.e.,* from the time that a sample is collected from a patient to the time that the result is available to the healthcare provider).

6. *Setting and Ease of Use.* The settings or venues in which the proposed point-of-need *in vitro* diagnostic test may be most needed for combating antibiotic resistance. The development of an effective *in vitro* diagnostic test that is easy to use. Recognizing that diagnostics often require specialized equipment for sample storage, processing and/or analysis, considerations about how such specialized equipment may affect an *in vitro* diagnostic test's ease of use or otherwise limit its utility.

As part of the evaluation process, the panel may request a demonstration of the technology.

Additional Requirements

Each individual (whether participating singly or in a group) or entity agrees to follow all applicable federal, state, and local laws, regulations, and policies.

Each individual (whether participating singly or in a group) or entity participating in this Challenge must comply with all terms and conditions of these rules, and participation in this Challenge constitutes each such participant's full and unconditional agreement to abide by these rules. Winning is contingent upon fulfilling all requirements herein.

Intellectual Property: By submitting the Submission, each Solver warrants that he or she is the sole author and owner of any copyrightable works that the Submission comprises, that the works are wholly original with the Solver (or is an improved version of an existing work that the Solver has sufficient rights to use and improve), and that the Submission does not infringe any copyright or any other rights of any third party of which Solver is aware.

To receive an award, Solvers will *not* be required to transfer their exclusive intellectual property rights to the NIH or ASPR. Instead, Solvers must grant to the federal government a *nonexclusive license* to practice their solutions and use the materials that describe them. To participate in the Challenge, each Solver must warrant that there are no legal obstacles to providing a nonexclusive license of Solver's rights to the federal government. This license must grant to the United States government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States throughout the world any invention made by the Solvers that covers the Submission. In addition, the license must grant to the federal government and others acting on its behalf, a fully paid, nonexclusive, irrevocable, worldwide license in any copyrightable works that the Submission comprises, including the right to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly said copyrightable works.

Liability and Indemnification: By participating in this Challenge, each Solver agrees to assume any and all risks and waive claims against the federal government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this Challenge, whether the injury, death, damage, or loss arises through negligence or otherwise. By participating in this Challenge, each Solver agrees to indemnify the federal government against third party claims for damages arising from or related to Challenge activities.

Insurance: Based on the subject matter of the Challenge, the type of work that it will possibly require, as well as an analysis of the likelihood of any claims for death, bodily injury, or property damage, or loss potentially resulting from competition participation, Solvers are not required to obtain liability insurance or demonstrate financial responsibility in order to participate in this Challenge.

Privacy, Data Security, Ethics, and Compliance: Solvers are required to identify and address privacy and security issues in their proposed projects and describe specific solutions for meeting them. In addition to complying with appropriate policies, procedures, and protections for data that ensures all privacy requirements and institutional policies are met, use of data should not allow the identification of the individual from whom the data was collected.

Solvers are responsible for compliance with all applicable federal, state, local, and institutional laws, regulations, and policies. These may include, but are not limited to, Health Information Portability and Accountability Act (HIPAA) protections, Department of Health and Human Services (HHS) Protection of Human Subjects regulations, and Food and Drug Administration (FDA) regulations. If approvals (*e.g.,* from an Institutional Review Board) will be required to initiate project activities in Step 2, it is recommended that Solvers apply for approval at or before the Step 1 submission deadline. The following links are intended as a starting point for addressing potentially applicable regulatory requirements but should not be interpreted as a complete list of resources on these issues:

HIPAA

Main link: *http://www.hhs.gov/ocr/privacy/index.html.*

Summary of the HIPAA Privacy Rule: *http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/index.html.*

Summary of the HIPAA Security Rule: *http://www.hhs.gov/ocr/privacy/hipaa/understanding/srsummary.html.*

Human Subjects—HHS

Office for Human Research Protections: *http://www.hhs.gov/ohrp/index.html.*

Protection of Human Subjects Regulations: *http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html.*

Policy & Guidance: *http://www.hhs.gov/ohrp/policy/index.html.*

Institutional Review Boards & Assurances: *http://www.hhs.gov/ohrp/assurances/index.html.*

Human Subjects—FDA

Clinical Trials: *http://www.fda.gov/ScienceResearch/SpecialTopics/RunningClinicalTrials/default.htm.*

Office of Good Clinical Practice: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/OfficeofScienceandHealthCoordination/ucm2018191.*

Consumer Protection—Federal Trade Commission

Bureau of Consumer Protection: *http://business.ftc.gov/privacy-and-security.*

Challenge Judges: Senior leadership of the DPCPSI of the Office of the Director of NIH; the National Institute of Allergy and Infectious Diseases (NIAID), NIH; and BARDA, ASPR.

Acknowledgements

The Antimicrobial Resistance Diagnostic Working Group would like to thank the following Subject Matter Experts for providing guidance as BARDA and NIH staff developed this Challenge.

NIAID staff including Ann Eakin, Ph.D. and Randall Kincaid, Ph.D.

FDA staff including Steven Gitterman, M.D., Ph.D. and Jennifer Ross, Ph.D., J.D.

CDC staff including Jean Patel, Ph.D., D (ABMM).

Dated: August 3, 2016.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2016–21328 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF MENTAL HEALTH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Mental Health.

Date: September 26–28, 2016.

Time: September 26, 2016, 1:20 p.m. to 5:15 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Room GE610/640, Building 35A Convent Drive, Bethesda, MD 20892.

Time: September 26, 2016, 6:00 p.m. to 8:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Time: September 27, 2016, 9:00 a.m. to 4:40 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Room GE610/640, Building 35A Convent Drive, Bethesda, MD 20892.

Time: September 28, 2016, 8:40 a.m. to 4:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Room GE610/640, Building 35A Convent Drive, Bethesda, MD 20892.

Contact Person: Jennifer E. Mehren, Ph.D., Scientific Advisor, Division of Intramural Research Programs, National Institute of Mental Health, NIH, 35A Convent Drive, Room GE 412, Bethesda, MD 20892–3747, 301–496–3501, *mehrenj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: September 1, 2016.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21619 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Cancer Prevention Fellowship Program Fellowship Program and Summer Curriculum Applications

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 17, 2016 page 39679 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Annalisa Gnoleba, Public Health Analyst, Cancer Prevention Fellowship Program, 9609 Medical Center Drive, Room 2E–108 Bethesda, Maryland 20892–9776 or call non-toll-free number (240)–276–7146 or email your request, including your address to: *gnolebaad@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Cancer Prevention Fellowship Program Fellowship Program and Summer Curriculum Applications (NCI), New-Existing Information Collection without an OMB Number, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute, Division of Cancer Prevention, Cancer Prevention Fellowship Program (CPFP) administers a variety of programs and initiatives to recruit post-doctoral educational level individuals into the Intramural and extramural Research Program to facilitate their development into future scientists. CPFP trains post-doctoral fellows through full time fellowships in preparation for research careers in cancer prevention and control. The proposed information collection involves brief online applications completed by applicants to the full time and the summer curriculum programs. Full-time fellowships include: Non-FTE fellowships for US citizens and permanent residents and fellows that are part of the Irish Consortia. These applications are essential to the administration of these training programs as they enable CPFP to determine the eligibility and quality of potential awardees; to assess their potential as future scientists; to determine where mutual research interests exist; and to make decisions regarding which applicants will be proposed and approved for traineeship awards. In each case, completing the application is voluntary, but in order to receive due consideration, the prospective trainee is encouraged to complete all relevant fields. The information is for internal use to make decisions about prospective fellows and students that could benefit from the CPFP program.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 400.

ESTIMATED ANNUALIZED BURDEN HOURS

Form	Type of respondent	Estimated number of respondents	Estimated number of responses annually per respondent	Estimated total annual burden hours	Estimated total annual burden hours
CPFP Fellowship Application (Attachment 1)	Student Applicants	150	1	1	150
Reference Recommendation Letters (Attachment 3).	Contributor	150	1	1	150
CPFP Summer Curriculum Application (Attachment 2).	Student Applicants	100	1	1	100
Total	....	400	400	....	400

Dated: August 31, 2016.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, NIH.

[FR Doc. 2016–21518 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Animal/Biological Resource Facilities.

Date: September 27–28, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: September 28–29, 2016.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 2620 Hotel Fisherman's Wharf, 2620 Jones Street, San Francisco, CA 94133.

Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, VA 22311.

Contact Person: Anna L. Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301–435–2889, *rileyann@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Washington, DC Downtown, 1199 Vermont Avenue NW., Washington, DC 20005.

Contact Person: Julius Cinque, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, *cinquej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: BTSS and SAT Member Conflict.

Date: October 7, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 1, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21513 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development; Special Emphasis Panel.

Date: October 18, 2016.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscah Mujuru, DRPH, COHNS, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH 6710 B Rockledge Drive, Room 2121B, Bethesda, Maryland 20892, 301–435–6908, *mujurup@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 2, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21618 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development; Special Emphasis Panel, Special Emphasis Panel—ZIKV P01 Teleconference Review.

Date: October 7, 2016.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6710B, 6710B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Bethesda, MD 20817, 301–451–3415, *duperes@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development; Special Emphasis Panel.

Date: October 14, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development; Special Emphasis Panel NICHD T32 Review.

Date: December 5–6, 2016.

Time: 7:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive Bethesda, MD 20817, 301–451–3415, *duperes@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and

Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 2, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21617 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Lung Disease and Epigenetics.

Date: September 23, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ellen K. Schwartz, EDD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3144, MSC 7770, Bethesda, MD 20892, 301–828–6146, *schwarel@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR13–325 and 326: Development of Appropriate Pediatric Formulations.

Date: September 30, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Capitol Skyline Hotel, 10 I Street SW., Washington, DC 20024.

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Behavioral Genetics and Epidemiology Study Section.

Date: October 6, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Place U.S. Capitol, 33 New York Ave. NE., Washington, DC 20002.

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Interventions to Prevent and Treat Addictions Study Section.

Date: October 6, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Innate Immunity and Inflammation Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interventions to Prevent and Treat Addictions Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, Bethesda, MD 20892, (301) 523–0646, *mintzermz@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Molecular and Cellular Endocrinology Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182 MSC 7892, Bethesda, MD 20892, 301–435–2514, *riverase@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Virginian Suites, 1500 Arlington Boulevard, Arlington, VA 22209.

Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Neurological, Aging and Musculoskeletal Epidemiology Study Section.

Date: October 6–7, 2016.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Alexandria Old Town/Duke Street, 1456 Duke Street, Alexandria, VA 22314.

Contact Person: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–435–1721, *hfriedman@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetic Variation and Evolution Study Section.

Date: October 6–7, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301–435–4511, *ronald.adkins@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–116: Bioengineering Research Partnerships (BRP).

Date: October 6, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, *lijames@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 1, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21515 Filed 9–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0261]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0063

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0063, Marine Occupational Health and Safety Standards for Benzene—46 CFR 197 Subpart C. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before October 11, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2016–0261] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE., STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2016–0261], and must be received by October 11, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0063.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (81 FR 28094, May 9, 2016) required by 44 U.S.C. 3506(c)(2). That Notice elicited two comments from one commenter. The comments are outside the scope of the Notice. However, the Coast Guard will consider the comments in any future rulemaking. Accordingly, no changes have been made to the Collections.

Information Collection Request

Title: Marine Occupational Health and Safety Standards for Benzene—46 CFR 197 Subpart C.

OMB Control Number: 1625–0063.

Summary: To protect marine workers from exposure to toxic Benzene vapor, the Coast Guard implemented Title 46 CFR 197 Subpart C.

Need: This information collection is vital to verifying compliance. The Coast Guard authority is covered in Title 46 CFR 197 Subpart C.

Forms: N/A.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden remains 38,165 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Marilyn Scott-Perez,

U.S. Coast Guard, Acting Deputy Chief Information Officer.

[FR Doc. 2016–21549 Filed 9–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0258]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0049

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0049, Waterfront Facilities Handling Liquefied Natural Gas (LNG) and Liquefied Hazardous Gas (LHG). Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before October 11, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2016–0258] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from:

COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR AVE. SE., STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2016–0258], and must be received by October 11, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0049.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (81 FR 28088, May 9, 2016) required by 44 U.S.C. 3506(c)(2). We received three comments from two commenters to the 60-day notice.

- The first comment was not related to the periodic renewal of this information collection. The comment was about the need to correct outdated organizational addresses and standards of certain materials incorporated by reference in the title 33 CFR part 127 Waterfront Facilities Handling LNG and LHG. The Coast Guard will consider this comment in an ongoing rulemaking that will revise these facility standards.
- The second comment recommended revising the hour burden per response for certain reporting and recordkeeping activities. We agree in part and have changed as recommended the estimated burden for Operational and Emergency Manual development, and person in charge certification. However, we have kept unchanged our estimated burden for amendments to Operational and Emergency Manuals and declarations of inspection, as the current estimates are more representative of the time required for most activities of this nature.
- The third comment recommended allowing LNG–LHG-related submissions via *https://HOMEPORT.uscg.mil* to reduce administrative burden. We will consider incorporating this option in the future.

Information Collection Request

Title: Waterfront Facilities Handling Liquefied Natural Gas (LNG) and Liquefied Hazardous Gas (LHG).

OMB Control Number: 1625–0049.

Summary: Liquefied Natural Gas (LNG) and other Liquefied Hazardous Gases (LHG) present a risk to the public when handled at waterfront facilities. These rules should either prevent accidental releases at waterfront facilities or mitigate their results. They are necessary to promote and verify compliance with safety standards.

Need: Title 33 CFR part 127 prescribes safety standards for the design, construction, equipment, operations, maintenance, personnel training, and fire protection at waterfront facilities handling LNG or LHG.

Forms: N/A.

Respondents: Owners and operators of waterfront facilities that transfer LNG or LHG.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 6,425 hours to 9,734 hours a year due to several factors. First, the increase is due to public comment that recommended increasing certain hour burden estimates per response. Second, the increase is due to a reevaluation by the Coast Guard that resulted in an increase in the estimated annual number of LHG facility waterway suitability assessments.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Marilyn Scott-Perez,

U.S. Coast Guard, Acting Deputy Chief Information Officer.

[FR Doc. 2016–21546 Filed 9–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0769]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0028

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0028, Course Approval and Records for Merchant Mariner Training Schools; without change. Our ICR describe the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 7, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2016–0769] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from:

COMMANDANT (CG–612), ATTN:
PAPERWORK REDUCTION ACT
MANAGER, U.S. COAST GUARD, 2703
MARTIN LUTHER KING JR AVE SE.,
STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise the ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2016–0769], and must be received by November 7, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Course Approval and Records for Merchant Mariner Training Schools.

OMB Control Number: 1625–0028.

Summary: The information is needed to ensure that merchant marine training schools meet minimal statutory requirements. The information is used to approve the curriculum, facility and faculty for these schools.

Need: Section 7315 of 46 U.S.C. authorizes an applicant for a license or document to substitute the completion of an approved course for a portion of the required sea service. Section 10.402 of 46 Code of Federal Regulations (CFR) contains the Coast Guard regulations for course approval.

Forms: None.

Respondents: Merchant marine training schools.

Frequency: Five years for reporting; one year for recordkeeping.

Hour Burden Estimate: The estimated burden has increased from 128,139 hours to 139,807 hours a year primarily due to an increase in the number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Marilyn Scott-Perez,

U.S. Coast Guard, Acting Deputy Chief Information Officer.

[FR Doc. 2016–21547 Filed 9–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0770]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0079

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0079, Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995, 1997 and 2010 Amendments to the International Convention; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 7, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2016–0770] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the "Public participation and request for comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE., STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise the ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2016–0770], and must be received by November 7, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov*, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995, 1997 and 2010 Amendments to the International Convention.

OMB Control Number: 1625–0079.

Summary: This information is necessary to ensure compliance with the international requirements of the STCW Convention, and to maintain an acceptable level of quality in activities associated with training and assessment of merchant mariners.

Need: Chapter 71 of 46 U.S.C. authorizes the Coast Guard to issue regulations related to licensing of merchant mariners. These regulations are contained in 46 CFR chapter I, subchapter B.

Forms: None.

Respondents: Owners and operators of vessels, training institutions and mariners.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 31,730 hours to 29,366 hours a year due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Marilyn Scott-Perez,

Acting Deputy Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2016–21545 Filed 9–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0249]

Information Collection Request[s] to Office of Management and Budget; OMB Control Number: 1625–0056

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0056, Labeling Required in 33 Code of Federal Regulation parts 181 and 183 and 46 Code of Federal Regulation 25.10–3. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 7, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2016–0249] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the "Public participation and request for comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2016–0249], and must be received by November 7, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Labeling Required in 33 Code of Federal Regulation Parts 181 and 183, and 46 Code of Federal Regulation 25.10–3.

OMB Control Number: 1625–0056.

Summary: Parts 181 and 183 of Title 33, Code of Federal Regulations and 46 Code of Federal Regulation 25.10–3 contain the regulations and safety standards authorized by the statutes which apply to manufacturers of recreational boats, un-inspected commercial vessels and associated equipment. The regulations and safety standards contain information collections, which require boat and associated equipment manufacturers, importers and the boating public to apply for serial numbers and to display various labels evidencing compliance: Hull Identification Numbers, U.S. Coast Guard Maximum Capacities Label; Gasoline Fuel Tank Label; U.S. Coast Guard Type Fuel Hose Label; and Certified Navigation Light Label.

Need: Title 46 U.S.C. 4302(a)(3) gives the Coast Guard the authority to require the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

Forms: None.

Respondents: Manufacturers of boats, fuel tanks, fuel hoses and navigation lights.

Frequency: Once.

Hour Burden Estimate: There has been an increase in the burden time associated with this collection. The Coast Guard has increased the reporting burden associated with this collection from 156,170 hours annually to 176,029 hours a year. This is an adjustment and is due to an increase in the annual boat sales volume.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Marilyn Scott-Perez,

U.S. Coast Guard, Acting Deputy Chief Information Officer.

[FR Doc. 2016–21548 Filed 9–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5903–N–02]

Notice of Single Family Loan Sales (SFLS 2016–2)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of sales of mortgage loans.

SUMMARY: This notice announces HUD's intention to competitively sell certain unsubsidized single family mortgage loans, in a sealed bid sale offering called SFLS 2016–2, without Federal Housing Administration (FHA) mortgage insurance. This notice also generally describes the bidding process for the sale and certain persons who are ineligible to bid. This is the second sale offering of its type in Fiscal Year (FY) 2016 and the sale will be held on September 14, 2016.

DATES: For this sale action, the Bidder's Information Package (BIP) is expected to be made available to qualified bidders on or about August 15, 2016. Bids for the 2016–2 sale will be accepted on the Bid Date of September 14, 2016 (Bid Date). HUD anticipates that award(s) will be made on or about September 15, 2016 (the Award Date).

ADDRESSES: To become a qualified bidder and receive the BIP, prospective bidders must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents are available via the HUD Web site at: *http://www.hud.gov/sfloansales* or via: *http://www.verdiassetsales.com.* Please mail and fax executed documents to Verdi Consulting, Inc.: Verdi Consulting, Inc. 8400 Westpark Drive, 4th Floor, McLean, VA 22102, Attention: HUD SFLS Loan Sale Coordinator, Fax: 1–703–584–7790.

FOR FURTHER INFORMATION CONTACT: John Lucey, Director, Asset Sales Office, Room 3136, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000; telephone 202–708–2625, extension 3927. Hearing- or speech-impaired individuals may call 202–708–4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: HUD announces its intention to sell in SFLS 2016–2 certain unsubsidized non-performing mortgage loans (Mortgage Loans) secured by single family properties located throughout the United States. A listing of the Mortgage Loans is included in the due diligence materials made available to qualified bidders. The Mortgage Loans will be sold without FHA insurance and with servicing released. HUD will offer qualified bidders an opportunity to bid competitively on the Mortgage Loans.

The Loans will be offered in two pool types. The Department will offer national loan pools for bid and will also offer regionally-based pools, with additional purchaser requirements, that are called the Neighborhood Stabilization Outcome pools. Some of these Neighborhood Stabilization Outcome pools will be designated for bidding by qualified non-profit or unit of local government entities only. These pools will be geographically concentrated. Qualified non-profit bidders will also have the opportunity to bid on up to 5% of the loans in a designated national pool.

The Bidding Process

The BIP describes in detail the procedure for bidding in SFLS 2016–2. The BIP also includes a standardized non-negotiable Conveyance, Assignment and Assumption Agreement (CAA Agreement). Qualified bidders will be required to submit a deposit with their bid. Deposits are calculated based upon each qualified bidder's aggregate bid price.

HUD will evaluate the bids submitted and determine the successful bid, in terms of the best value to HUD, in its sole and absolute discretion. If a qualified bidder is successful, the qualified bidder's deposit will be non-refundable and will be applied toward the purchase price. Deposits will be returned to unsuccessful bidders.

This notice provides some of the basic terms of sale. The CAA Agreement, which is included in the BIP, provides comprehensive contractual terms and conditions. To ensure a competitive bidding process, the terms of the bidding process and the CAA Agreement are not subject to negotiation.

Due Diligence Review

The BIP describes how qualified bidders may access the due diligence materials remotely via a high-speed Internet connection.

Mortgage Loan Sale Policy

HUD reserves the right to remove Mortgage Loans from SFLS 2016–2 at any time prior to the Award Date. HUD also reserves the right to reject any and all bids, in whole or in part, and include any Mortgage Loans in a later sale. Deliveries of Mortgage Loans will occur in at least two monthly settlements and the number of Mortgage Loans delivered will vary depending upon the number of Mortgage Loans the Participating Servicers have submitted for the payment of an FHA insurance claim. The Participating Servicers will not be able to submit claims on loans that are not included in the Mortgage Loan Portfolio set forth in the BIP. There can be no assurance that any Participating Servicer will deliver a minimum number of Mortgage Loans to HUD or that a minimum number of Mortgage Loans will be delivered to the Purchaser.

The SFLS 2016–2 Mortgage Loans are assigned to HUD pursuant to section 204(a)(1)(A) of the National Housing Act as amended under Title VI of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1999. The sale of the Mortgage Loans is pursuant to section 204(g) of the National Housing Act.

Mortgage Loan Sale Procedure

HUD selected an open competitive whole-loan sale as the method to sell the Mortgage Loans for this specific sale transaction. For SFLS 2016–2, HUD has determined that this method of sale optimizes HUD's return on the sale of these Mortgage Loans, affords the greatest opportunity for all qualified bidders to bid on the Mortgage Loans, and provides the quickest and most efficient vehicle for HUD to dispose of the Mortgage Loans.

Bidder Ineligibility

In order to bid in SFLS 2016–2 as a qualified bidder, a prospective bidder must complete, execute and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD and applicable to the loan pool being purchased. In the Qualification Statement, the prospective bidder must provide certain representations and warranties regarding (i) a prospective bidder, (ii) a prospective bidder's board of directors, (iii) a prospective bidder's direct parent, (iii) a prospective bidder's subsidiaries, and (iv) any related entity with which the prospective bidder shares a common officer, director, subcontractor or sub-contractor who has access to Confidential Information as defined in the Confidentiality Agreement or is involved in the formation of a bid transaction ("Related Entities"), and (v) a prospective bidder's repurchase lenders. The prospective bidder is ineligible to bid on any of the Mortgage Loans included in SFLS if the prospective bidder, its Related Entities or its repurchase lenders, is any of the following, unless other exceptions apply as provided for the in Qualification Statement.

1. An individual or entity that is currently debarred, suspended, or excluded from doing business with HUD pursuant to the Governmentwide Suspension and Debarment regulations at 2 CFR parts 180 and 2424;

2. An individual or entity that is currently suspended, debarred or otherwise restricted by any department or agency of the federal government or of a state government from doing business with such department or agency;

3. An individual or entity that is currently debarred, suspended, or excluded from doing mortgage related business, including having a business license suspended, surrendered or revoked, by any federal, state or local government agency, division or department;

4. An entity that has had its right to act as a Government National Mortgage Association ("Ginnie Mae") issuer terminated and its interest in mortgages backing Ginnie Mae mortgage-backed securities extinguished by Ginnie Mae;

5. An individual or entity that is in violation of its neighborhood stabilizing outcome obligations or post-sale reporting requirements under a Conveyance, Assignment and Assumption Agreement executed for a past sale;

6. An employee of HUD's Office of Housing, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household with household to be inclusive of the employee's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, first cousin, the spouse of any of the foregoing, and the employee's spouse;

7. A contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, or principal of any of the foregoing) who performed services for or on behalf of HUD in connection with the sale;

8. An individual or entity that knowingly acquired or will acquire prior to the sale date material non-public information, other than that information which is made available to Bidder by HUD pursuant to the terms of this Qualification Statement, about Mortgage Loans offered in the sale;

9. An individual or entity that knowingly uses the services, directly or indirectly, of any person or entity ineligible under 1 through 11 to assist in preparing any of its bids on the Mortgage Loans;

10. An individual or entity which knowingly employs or uses the services of an employee of HUD's Office of Housing (other than in such employee's official capacity); or

11. A Participating Servicer that contributed Mortgage Loans to a pool on which the Bidder is placing a bid.

The Qualification Statement has additional representations and warranties which the prospective bidder must make, including but not limited to the representation and warranty that the prospective bidder or its Related Entities are not and will not knowingly use the services, directly or indirectly, of any person or entity that is, any of the following (and to the extent that any such individual or entity would prevent Bidder from making the following representations, such individual or entity has been removed from participation in all activities related to this sale and has no ability to influence or control individuals involved in formation of a bid for this sale):

(1) An entity or individual is ineligible to bid on any included Mortgage Loan or on the pool containing such Mortgage Loan because it is an entity or individual that:

(a) Serviced or held any Mortgage Loan at any time during the two-year period prior to the bid, or

(b) is any principal of any entity or individual described in the preceding sentence;

(c) any employee or subcontractor of such entity or individual during that two-year period; or

(d) any entity or individual that employs or uses the services of any other entity or individual described in this paragraph in preparing its bid on such Mortgage Loan.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding SFLS 2016–2, including, but not limited to, the identity of any successful qualified bidder and its bid price or bid percentage for any pool of loans or individual loan, upon the closing of the sale of all the Mortgage Loans. Even if HUD elects not to publicly disclose any information relating to SFLS 2016–2, HUD will disclose any information that HUD is obligated to disclose pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to SFLS 2016–2 and does not establish HUD's policy for the sale of other mortgage loans.

Dated: September 1, 2016.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

[FR Doc. 2016–21661 Filed 9–7–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–C–64]

30-Day Notice of Proposed Information Collection: Application for Community Compass TA and Capacity Building Program NOFA

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Correction.

SUMMARY: On August 30, 2016, at 81 FR 59649, HUD published the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment. This correction is updating the burden chart with the accurate calculation of burden hours.

DATES: *Comments Due Date:* October 11, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535.

This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 20, 2016 at 81 FR 24628.

A. Overview of Information Collection

Title of Information Collection: Application for Community Compass TA and Capacity Building Program NOFA.

OMB Approval Number: 2506–0198.

Type of Request: Revision.

Form Number: None.

Description of the need for the information and proposed use: Application information is needed to determine competition winners, *i.e.*, the technical assistance providers best able to develop efficient and effective programs and projects that increase the supply of affordable housing units, prevent and reduce homelessness, improve data collection and reporting, and use coordinated neighborhood and community development strategies to revitalize and strengthen their communities.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Targeted Needs Assessment	120	1	120	52	$6,240.00	$64.16	$400,358.40
Total	120	....	....	52	6,240.00	64.16	400,358.40

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 31, 2016.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–21498 Filed 9–7–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5915–N–09]

60-Day Notice of Proposed Information Collection: Evaluation of the Rental Assistance Demonstration Program, Phase 2

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 7, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4176, Washington, DC 20410–5000; telephone (202) 402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Evaluation of the Rental Assistance Demonstration, Phase 2.

OMB Approval Number: Pending.

Type of Request: New.

Form Number: No forms.

Description of the need for the information and proposed use: The Rental Assistance Demonstration program (RAD) was established in 2012 to stem the loss of public housing units and other subsidized housing arising from a backlog of capital needs. The program helps to convert at-risk public housing properties to two different forms of project-based Section 8 Housing Assistance Payments (HAP) contracts—either project-based voucher (PBV) or project-based rental assistance (PBRA)—giving public housing authorities (PHAs) more flexibility to access private and public funding sources, reducing their reliance on limited appropriations. The RAD authorizing statute requires HUD to assess the impact of the program on: (1) The preservation and improvement of former public housing units, in particular their physical and financial condition, (2) the amount of external capital leveraged as a result of such conversions, and (3) the residents living in properties at the time of conversion.

To comply with this statutory requirement and examine whether the program's objectives are being achieved, HUD will be collecting and analyzing quantitative and qualitative data from primary and secondary sources related to the following: (1) The physical and financial condition of 24 RAD properties selected for the study and 48 non-RAD properties selected for comparison; (2) the implementation of the program, including the capital needs and amount of external funding leveraged; and (3) the experience with, and effect on, residents.

The first phase of the evaluation has been completed, and relied on information collected in accordance with OMB control number 2528–0304. Under Phase 1, HUD surveyed PHAs about their experiences with RAD and began enrolling public housing residents to track them for Phase 2 of the study. That information collection effort occurred early in the RAD implementation process; while it provided useful information about how PHAs were approaching RAD, further information collection is necessary to understand the results of RAD. The second phase of the evaluation is now under way to answer questions about effects of RAD three to four years after its launch. This notice announces HUD's intent to collect the following additional information: 1) a survey of residents of RAD properties and 2) follow-up interviews with PHA staff. This information will inform HUD, Congress, and other interested parties about how PHAs and residents are experiencing RAD now that projects have been converted, and whether or not it is achieving its intended objectives.

Respondents (*i.e.* affected public): This information collection will affect approximately 400 households that have been enrolled in the RAD tenant study (enrollment was approved under OMB control number 2528–0304) and approximately 100 PHA staff, including Executive Directors and other high-level staff at PHAs participating in RAD. The tenant survey is expected to take 1 hour and will be conducted once for each household. The PHA interviews are expected to take 1 hour and will be conducted one time.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Survey of RAD tenants	400	One time	1	1	400	$7.25	$2,900
Interviews with PHA staff.	100	One time	1	1	100	40	4,000
Total	500		....	....	500	....	6,900

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 31, 2016.

Katherine M. O'Regan,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 2016–21663 Filed 9–7–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–65]

30-Day Notice of Proposed Information Collection: Mortgage Insurance Termination; Application for Premium Refund or Distributive Share Payment

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* October 11, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 21, 2016 at 81 FR 40340.

A. Overview of Information Collection

Title of Information Collection: Mortgage Insurance Termination;

Application for Premium Refund or Distributive Share Payment.

OMB Approval Number: 2502–0414.

Type of Request: Extension without change of a currently approved collection.

Form Number: HUD–27050–A and B.

Description of the Need for the Information and Proposed Use: The information collection for Mortgage Insurance Termination is used by servicing mortgagees to comply with HUD requirements for reporting the termination of FHA mortgage insurance. This information collection is used whenever FHA mortgage insurance is terminated and no claim for insurance benefits will be filed. Under the streamline III program, the information can be used to directly pay eligible homeowners.

Respondents Individuals or Households:

Estimated Number of Respondents: 56,000.

Estimated Number of Responses: 725,000.

Frequency of Response: Varies.

Average Hours per Response: 1.0.

Total Estimated Burden: 66,500.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 1, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–21484 Filed 9–7–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5920–N–01]

60-Day Notice of Proposed Information Collection: Federal Labor Standards Payee Verification and Payment Processing

AGENCY: Office of Labor Standards and Enforcement, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 7, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–5000; email *Anna.P.Guido@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Federal Labor Standards Payee Verification and Payment Processing.

OMB Approval Number: FR–2501–0021.

Type of Request:

Form Number: None.

Description of the Need for the Information and Proposed Use: To make refunds and wage restitution payments.

Number of Respondents: 50.

Frequency of Response: 1.

Responses per Annum: 50.

Burden Hours per Response: .1.

Annual Burden Hours: 5.

Hourly Cost per Response: $10.00.

Annual Cost: $50.00.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	*50*	1	50	.1	5	$10.00	$50.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 29, 2016.

Robert B. Morton,

Director, Office of Labor Standards and Enforcement.

[FR Doc. 2016–21657 Filed 9–7–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5920–N–02]

60-Day Notice of Proposed Information Collection: Federal Labor Standards Questionnaire Complaint Intake Form

AGENCY: Office of Labor Standards and Enforcement, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 7, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, The Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–5000; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Federal Labor Standards Questionnaire Complaint Intake Form.

OMB Approval Number: FR–2501–0018.

Type of Request: Revision.

Form Number: HUD FORMS 5730, HUD 4730E; HUD 430SP; HUD 4731.

Description of the Need for the Information and Proposed Use: Expired OMB dates.

Number of Respondents: 2,000.

Frequency of Response: 1.

Responses per Annum: 250.

Burden Hour per Respondents: .5.

Annual Burden Hours: 1,2500.

Hourly Cost per Response: 10.00.

Annual Cost: $12,500.00.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	1,500	1	1,250	.5	250	$10.00	$12,500.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 30, 2016.

Robert B. Morton,

Director, Office of Labor Standards and Enforcement, M.

[FR Doc. 2016–21658 Filed 9–7–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N130; FXES11130200000–167–FF02ENEH00]

Draft Screening Form and Draft Low-Effect Habitat Conservation Plan for the Scenic Arizona Perez Home Development; Mohave County, AZ

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Alex Perez (applicant) for a 5-year incidental take permit for the threatened Mojave Desert tortoise pursuant to the Endangered Species Act of 1973, as amended (Act).

We are requesting comments on the permit application, the draft Habitat Conservation Plan (HCP), and the preliminary determination that the proposed HCP qualifies as a "low-effect" HCP, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the environmental action statement (EAS) and associated low-effect screening form, which are also available for public review.

DATES: To ensure consideration, written comments must be received or postmarked on or before October 11, 2016. Any comments that we receive after the closing date may not be considered.

ADDRESSES:

Availability of Documents: The draft EAS, low-effect screening form, and draft Scenic Arizona Perez Home Development Low-Effect Habitat Conservation Plan are available by the following methods:

- *Internet:* Documents are available on the Internet at the Service's Web site, at *http://www.fws.gov/southwest/es/arizona/.*

- *U.S. Mail:* A limited number of CD–ROM and printed copies of both documents are available, by request, from Mr. Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office, 9828 North 31st Ave. #C3, Phoenix, AZ 85051–2517; telephone: 602–242–0210; fax: 602–242–2513. Please note that your request is in reference to the Scenic Arizona Perez Home Development Low-Effect Habitat Conservation Plan HCP.
- *In-Person:* Copies of all documents are also available for public inspection and review at the following locations, by written request and appointment only, 8 a.m. to 4:30 p.m.:
- U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 6034, Albuquerque, NM 87102.
- U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 9828 North 31st Ave. #C3, Phoenix, AZ 85051–2517; telephone: 602–242–0210; fax: 602–242–2513.

Comment submission: We request that you send comments only by one of the methods described below. Comments submitted by any other means may not be considered. Please note that your request is in reference to the Scenic Arizona Perez Home Development Low-Effect HCP.

- *Electronically:* Send comments to *fw2_hcp_permits@fws.gov.*
- *By hard copy:* Submit comments by U.S. mail or hand-delivery to: U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 9828 North 31st Ave. #C3, Phoenix, AZ 85051–2517; telephone: 602–242–0210.

FOR FURTHER INFORMATION CONTACT: Brian Wooldridge, Arizona Ecological Services Field Office—Flagstaff Office, 2500 S. Pine Knoll Dr., Flagstaff, AZ 86001; telephone (928–556–2106, extension 236); or by email (*brian_wooldridge@fws.gov*).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from Alex Perez (applicant) for a 5-year incidental take permit for one covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.,* Act). The application addresses the potential “take” of the threatened Mojave Desert tortoise in the course of activities associated with single-family home development activities on 10 acres of private land in the town of Scenic, Mohave County, Arizona. Measures to avoid and minimize impacts resulting from project activities would be implemented as described in the proposed HCP by the applicant.

We are requesting comments on the permit application and on the preliminary determination that the proposed HCP qualifies as a “low-effect” HCP, eligible for a categorical exclusion under the NEPA of 1969, as amended. The basis for this determination is discussed in the EAS and associated low-effect screening form, which are also available for public review.

Background

The applicant is seeking a 5-year permit under section 10(a)(1)(B) of the Act. If we approve the permit, the applicant anticipates the take of Mojave Desert tortoises (*Gopherus agassizii*) as a result of impacts to habitat the species uses for breeding, feeding, and sheltering. The take would be incidental to the applicant's activities associated with constructing the Scenic Arizona Perez Home Development.

Mr. Alex Perez purchased the 10 acres in Scenic, Arizona, and subdivided them into eight parcels to be developed with single-family homes. On each parcel, home-development activities would include clearing, building pads for homes and associated garages, and constructing homes and garages.

To minimize take of Mojave Desert tortoises by the project and offset impacts to its habitat, tortoises within the proposed impact areas will be relocated to land managed by the Bureau of Land Management approximately 2 miles southwest of the project site prior to initiation of development activities. It is anticipated that relocated tortoises will continue to contribute to the long-term conservation and survival of the species.

In addition, it is possible that only half of each parcel will be developed, leaving intact suitable tortoise habitat within the project area after project completion. Because tortoises are currently occupying burrows within similar habitat on nearby developed parcels, it is possible that tortoises will continue to use the undeveloped suitable habitat remaining on the project site after project completion.

Our Preliminary Determination

We have made a preliminary determination that the incidental take permit for this project is “low effect” and qualifies for categorical exclusion under the NEPA, as provided by 43 CFR 46.205, 43 CFR 46.210 and 516 Department Manual 8.5(C)(2).

We base our determination that the proposed HCP qualifies as a low-effect plan on the following three criteria:

(1) Implementation of the HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats, including designated critical habitat;

(2) Implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and

(3) Impacts of the HCP, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the final determination on whether to prepare such additional documentation.

Next Steps

We will evaluate the proposed HCP and comments we receive to determine whether the permit application meets the requirements and issuance criteria under section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). We will also evaluate whether issuing a section 10(a)(1)(B) incidental take permit would comply with section 7 of the Act by conducting an intra-Service consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue a permit. If the requirements and issuance criteria under section 10(a) are met, we will issue the permit to the applicant for incidental take of Mojave Desert tortoise.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*)

and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopoulous,

Acting Regional Director, Southwest Region.

[FR Doc. 2016–21285 Filed 9–7–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX16EE000101100]

Announcement of National Geospatial Advisory Committee Meeting

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: The National Geospatial Advisory Committee (NGAC) will meet on September 27–28, 2016 at the National Conservation Training Center, 698 Conservation Way, Shepherdstown, WV 25443. The meeting will be held in Room #201 Instructional East. The NGAC, which is composed of representatives from governmental, private sector, non-profit, and academic organizations, was established to advise the Federal Geographic Data Committee (FGDC) on management of Federal geospatial programs, the development of the National Spatial Data Infrastructure (NSDI), and the implementation of Office of Management and Budget (OMB) Circular A–16. Topics to be addressed at the meeting include:

—Leadership Dialogue
—FGDC Update
—NSDI Strategic Planning
—Transition Planning
—Emerging Technologies
—Policy Framework
—Standards Coordination
—Landsat

The meeting will include an opportunity for public comment during the morning of September 28. Comments may also be submitted to the NGAC in writing. Members of the public who wish to attend the meeting must register in advance for clearance into the meeting site. Please register by contacting Lucia Foulkes at the Federal Geographic Data Committee (703–648–4142, *lfoulkes@usgs.gov*). Registrations are due by September 20. While the meeting will be open to the public, registration is required for entrance to the facility, and seating may be limited due to room capacity.

DATES: The meeting will be held on September 27 from 8:30 a.m. to 5:00 p.m. and on September 28 from 8:30 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Mahoney, U.S. Geological Survey (206–220–4621).

SUPPLEMENTARY INFORMATION: Meetings of the National Geospatial Advisory Committee are open to the public. Additional information about the NGAC and the meeting are available at *www.fgdc.gov/ngac.*

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2016–21639 Filed 9–7–16; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–NAMA–21867; PPNCNAMAN0, PPMPSPD1Y.YM00000 (166)]

Proposed Information Collection; National Capital Region Application for Public Gathering

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on May 31, 2017. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by November 7, 2016.

ADDRESSES: Send your comments on the IC to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive (MS–242), Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please include "1024–0021" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Robbin Owen, National Capital Region, National Park Service, 900 Ohio Drive SW., Washington, DC 20024 (mail) or at 202–245–4715 (telephone); or Marisa Richardson via email at *Marisa_Richardson@nps.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Division of Permits Management of the National Mall and Memorial Parks issues permits for public gatherings (special events and demonstrations) held on NPS property within the National Capital Region. Regulations at 36 CFR 7.96(g) govern permits for public gatherings and implement statutory mandates to provide for resource protection and public enjoyment. These regulations reflect the special demands on many of the urban National Capital Region parks as sites for demonstrations and special events. A special event is any presentation, program, or display that is recreational, entertaining, or celebratory in nature; *e.g.,* sports events, pageants, celebrations, historical reenactments, regattas, entertainments, exhibitions, parades, fairs, festivals and similar events. The term "demonstration" includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct that involve the communication or expression of views or grievances.

Those who want to hold a special event or demonstration must complete NPS Form 10–941, "Application for a Permit to Conduct a Demonstration or Special Event in Park Areas" (which also includes a "Waiver of Numerical Limitations on Demonstrations for White House Sidewalk and/or Lafayette Park"). NPS Form 10–941 collects information on:

- Sponsor (name, address, telephone and fax numbers, email address, Web site address).
- Type of permit requested.
- Logistics (dates/times, location, purpose, plans, and equipment for proposed activity).
- Potential civil disobedience and traffic control issues.
- Circumstances that may warrant park rangers being assigned to the event.

II. Data

OMB Control Number: 1024–0021.

Title: National Capital Region Application for Public Gathering, 36 CFR 7.96(g).

Service Form Number(s): NPS Form 10–941, "Application for a Permit to Conduct a Demonstration or Special Event in Park Areas".

Type of Request: Revision of a currently approved collection.

Description of Respondents: Individuals, organizations, businesses, and State, local, or tribal governments.

Respondent's Obligation: Required to obtain a benefit.

Frequency of Collection: On occasion.

Activity	Total annual responses	Completion time per response (hours)	Total annual burden hours
Form 10–941, "Application for a Permit to Conduct a Demonstration or Special Event in Park Areas"			
Individuals	1,474	.5	737.00
Private Sector	184	.5	92.00
Government	92	.5	46.00
Site Plan			
Individuals	1,302	1	1,302.00
Private Sector	85	1	85.00
Government	12	1	12.00
Sign Plan			
Individuals	1,302	.5	651.00
Private Sector	85	.5	42.50
Government	12	.5	6.00
Risk Management Plan			
Individuals	1,302	1.5	1,953.00
Private Sector	85	1.5	127.50
Government	12	1.5	18.00
Administrative Documents			
Individuals	1,302	.75	976.50
Private Sector	85	.75	63.75
Government	12	.75	9.00
Totals	7,346		6,121.25

Estimated Annual Nonhour Cost Burden: The application fee of $120.00 is submitted with each special event application to recover the cost of processing the application. There is no application fee for permits to cover first amendment activities. Of the 1,750 applications (Forms 10–941) received annually, approximately 1,160 are for special events. Therefore, the estimated annual nonhour cost burden associated with this information collection is $139,200 ($120 × 1,160).

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 1, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–21571 Filed 9–7–16; 8:45 am]

BILLING CODE 4310–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–BSAD–CONC–21740; PPWOBSADC0, PPMVSCS1Y.Y00000 (166)]

Proposed Information Collection; National Park Service Leasing Program

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to comment on this IC. This IC is scheduled to expire on May 31, 2017. We may not conduct or sponsor and a person is not required to respond to a collection unless it displays a currently valid OMB control number.

DATES: Please submit your comment on or before November 7, 2016.

ADDRESSES: Please send your comments on the ICR to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, Mail Stop 242, Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please reference "1024–0233 Leasing Program" in the subject line.

FOR FURTHER INFORMATION CONTACT: Gordy Kito, Leasing Program Manager, Commercial Services Division, National

Park Service, 1201 I Street NW., Washington, DC 20005 (mail); *gordy_kito@nps.gov* (email); or (202) 354–2096 (phone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Park Service leasing program allows any person or governmental entity to lease buildings and associated property, administered by the Secretary of the Interior as part of the National Park System, under the authority of the Director of the National Park Service. A lease may not authorize an activity that could be authorized by a concessions contract or commercial use authorization. All leases must provide for the payment of fair market value rent. The Director may retain rental payments for park infrastructure needs and, in some cases, to provide administrative support of the leasing program.

Our authority to collect information for the leasing program is derived from Title 54, United States Code, section 102101 *et seq.* (54 U.S.C. 102101 *et seq.*), Title 54 of the United States Code, section 306121 (54 U.S.C. 306121), and Title 36, Code of Federal Regulations, Part 18 (36 CFR part 18). For competitive leasing opportunities, the regulations require the submission of proposals or bids by parties interested in applying for a lease. The regulations also require that the Director approve lease amendments, construction or demolition of structures, and encumbrances on leasehold interests.

We collect Information from anyone who wishes to submit a bid or proposal to lease a property. The Director may issue a request for bids if the amount of rent is the only criterion for award of a lease. The Director issues a request for proposals when the award of a lease is based on selection criteria other than the rental rate. A request for proposals may be preceded by a request for qualifications to select a "short list" of potential offerors that meet minimum management, financial, and other qualifications necessary for submission of a proposal.

The Director may enter into negotiations for a lease with nonprofit organizations and units of government without soliciting proposals or bids. In those cases, the Director collects information from the other party regarding the planned use of the premises, potential modifications to the premises, and other information as necessary to support a decision on whether or not to enter into a lease.

We also collect Information from existing leaseholders who seek to:

- Sublet a leased property or assign the lease to a new lessee.
- Construct or demolish portions of a leased property.
- Amend a lease to change the type of activities permitted under the lease.
- Encumber (mortgage) the leased premises.

We use the information to evaluate offers, proposed subleases or assignments, proposed construction or demolition, the merits of proposed lease amendments, and proposed encumbrances. The completion times for each information collection requirement vary substantially depending on the complexity of the leasing opportunity.

II. Data

OMB Control Number: 1024–0233.

Title: National Park Service Leasing Program, 36 CFR 18.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Individuals and businesses.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Total annual responses	Completion time per response (hours)	Total annual burden hours
Requests for Qualifications/Requests for Proposals/Requests for Bids—Simple	10	8	80
Requests for Qualifications/Requests for Proposals—Complex	10	40	400
Lessee Construction/Demolition—Simple	1	12	12
Lessee Construction/Demolition—Complex	2	32	64
Lease Amendments	2	4	8
Lessee Encumbrances—Simple	2	8	16
Lessee Encumbrances—Complex	2	40	80
Subletting and Assignment of Leases—Simple	4	8	32
Subletting and Assignment of Leases—Complex	1	40	40
Totals	34		732

Estimated Annual Nonhour Burden Cost: None.

III. Comments

We invite comments concerning this IC on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 1, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–21572 Filed 9–7–16; 8:45 am]

BILLING CODE 4310–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–21868; PPWONRADD1, PPMRSNR1Y.NM0000 (166)]

Proposed Information Collection; Research Permit and Reporting System Applications and Reports

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on April 30, 2017. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by November 7, 2016.

ADDRESSES: Send your comments on the IC to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Dr., Mail Stop 242, Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please include "1024–0236" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Bill Commins, Natural Resource Stewardship and Science, National Park Service, 1201 I St. NW., (Floor 8, Room 46), Washington DC 20005 (mail); 202–513–7166 (telephone); 202–371–1944 (fax); or *bill_commins@nps.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 36 CFR 2.1 and 2.5 provide for taking of scientific research specimens in parks. We use a permit system to manage scientific research and collecting. National Park Service Forms 10–741a (Application for a Scientific Research and Collecting Permit) and 10–741b (Application for a Science Education Permit) collect information from persons seeking a permit to conduct natural or social science research and collection activities in individual units of the National Park System. The information we collect includes, but is not limited to:

- Names and business contact information.
- Project title, purpose of study, summary of proposed field methods and activities, and study and field schedules.
- Location where scientific activities are proposed to take place, including method of access.
- Whether or not specimens are proposed to be collected or handled, and if yes, scientific descriptions and proposed disposition of specimens.
- If specimens are to be permanently retained, the proposed repositories for those specimens.

Persons who receive a permit must report annually on the activities conducted under the permit. Form 10–226 (Investigator's Annual Report) collects the following information:

- Reporting year, park, and type of permit.
- Names and business contact information and names of additional investigators.
- Project title, park-assigned study or activity number, park-assigned permit number, permit start and expiration dates, and scientific study start and ending dates.
- Activity type, subject discipline, purpose of study/activity during the reporting year, and finding and status of study or accomplishments of education activity during the reporting year.

We use the above information to manage the use and preservation of park resources and for reporting to the public via the Internet about the status of permitted research and collecting activities. We encourage respondents to use the Internet-based, automated Research Permit and Reporting System (RPRS) to complete and submit applications and reports. For those who use RPRS, much of the information needed for the annual report is generated automatically through information supplied in the application or contained in the permit.

You may obtain additional information about the application and reporting forms and existing guidance and explanatory material by clicking on "Help" at the RPRS Web site (*https://irma.nps.gov/RPRS/*).

II. Data

OMB Control Number: 1024–0236.

Title: Research Permit and Reporting System Applications and Reports, 36 CFR 2.1 and 2.5.

Service Form Number(s): NPS Forms 10–226, 10–741a, and 10–741b.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Individuals; businesses; academic and research institutions; and Federal, State, local, and tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for applications; annually for reports.

Activity	Number of respondents	Number of annual responses	Completion time per response	Total annual burden hours
Form 10–226, "Investigator's Annual Report"				
Individuals	495	495	15 minutes	124
Private Sector	2,600	2,600	15 minutes	650
Government	2,300	2,300	15 minutes	575
Subtotal	5,395	5,395		1,349
Form 10–741a, "Application for a Scientific Research and Collecting Permit"				
Individuals	390	390	1.38 hours	538
Private Sector	2,400	2,400	1.38 hours	3,312
Government	2,190	2,190	1.38 hours	3,022
Subtotal	4,980	4,980		6,872

Activity	Number of respondents	Number of annual responses	Completion time per response	Total annual burden hours
Form 10–741b, "Application for a Science Education Permit"				
Individuals	50	50	1 hour	50
Private Sector	215	215	1 hour	215
Government	150	150	1 hour	150
Subtotal	415	415		415
Totals	10,790	10,790		8,636

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 1, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–21568 Filed 9–7–16; 8:45 am]

BILLING CODE 4310–EH–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Memory Modules and Components Thereof, and Products Containing Same, DN 3173;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under § 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Netlist, Inc. on September 1, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain memory modules and components thereof, and products containing same. The complaint names as respondents SK hynix Inc. of Korea; SK hynix America Inc. of San Jose, CA, and SK hynix memory solutions Inc. of San Jose, CA. The complainant requests that the Commission issue a limited exclusion order and a cease and desist order and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3173") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel [2], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS [3].

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 1, 2016.

Katherine M. Hiner,

Acting Supervisory Attorney.

[FR Doc. 2016–21523 Filed 9–7–16; 8:45 am]

BILLING CODE 7020–02–P

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[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Chattem Chemicals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 11, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 11, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control ("Deputy Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on July 27, 2016, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Chattanooga, Tennessee 37409 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methamphetamine (1105)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Phenylacetone (8501)	II
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import the listed controlled substances to manufacture bulk controlled substances for sale to its customers. The company plans to import an intermediate form of tapentadol (9780), to bulk manufacture tapentadol for distribution to its customers.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–21536 Filed 9–7–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Linking Employment Activities Pre-Release Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) proposal titled, "Linking Employment Activities Pre-Release Evaluation" to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 11, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201603-1291-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OASAM, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the information collection activities needed to conduct an implementation evaluation of the Linking to Employment Activities Pre-Release (LEAP) program. The DOL has provided $10 million to 20 grantees to develop programs that strengthen ties between the public workforce system and local correctional facilities by establishing satellite American Job Centers in local jails to bridge the gap between pre and post release employment services. More specifically, this ICR seeks approval for three data collection instruments that will be used in the LEAP implementation evaluation: (1) Site visit protocols for visits that will each last two days and involve one-on-one semi-structured interviews with facility and community-based program administrators, focus groups, and observations of program activities and reviews of a small sample of case files; (2) focus group protocols the evaluation team will use in conducting three focus groups per site; and (3) respondent information forms on which each staff or program participant respondent will provide demographic characteristics and other relevant information to aid in the interpretation and comparison of focus group findings across sites and time periods. The DOL seeks clearance only for these three data collection activities. Should the DOL decide to undertake an impact evaluation for the LEAP grant program, a separate ICR will be submitted for OMB approval under the PRA. The public would have an opportunity to comment on that request. Workforce Investment Act section 172 authorizes this information collection. *See* 29 U.S.C. 2917.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on December 23, 2015 (80 FR 79936).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201603–1291–001. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–OASAM.

Title of Collection: Linking Employment Activities Pre-Release Evaluation.

OMB ICR Reference Number: 201603–1291–001.

Affected Public: Individuals or Households; Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 577.

Total Estimated Number of Responses: 577.

Total Estimated Annual Time Burden: 420 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: September 1, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–21622 Filed 9–7–16; 8:45 am]

BILLING CODE 4510–HX–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0256]

Information Collection: NRC Form 136, "Security Termination Statement"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 136, "Security Termination Statement."

DATES: Submit comments by October 11, 2016.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (OMB 3150–0049), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0256 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0256. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2015–0256 on this Web site.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML16190A252. The supporting statement is available in ADAMS under Accession No. ML16172A119.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, "Security Termination Statement." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 23, 2016 (81 FR 15573).

1. *The title of the information collection:* "Security Termination Statement."
2. *OMB approval number:* 3150–0049.
3. *Type of submission:* Extension.
4. *The form number if applicable:* NRC Form 136.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* NRC Employees, Licensees and contractors.
7. *The estimated number of annual responses:* 300.
8. *The estimated number of annual respondents:* 300.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 50.
10. *Abstract:* The NRC Form 136, "Security Termination Statement" is completed by employees, licensees and contractors in connection with the termination of their access authorization/security clearance granted by the NRC and to acknowledge and accept their continuing security responsibility.

Dated at Rockville, Maryland, this 31st day of August, 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–21540 Filed 9–7–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0069]

Information Collection: Suspicious Activity Reporting Using the Protected Web Server (PWS)

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled "Suspicious Activity Reporting using the Protected Web Server (PWS)."

DATES: Submit comments by November 7, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0069. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0069 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0069. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2016–0069 on this Web site.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML16139A021. The supporting statement is available in ADAMS under Accession No. ML16139A041.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2016–0069 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Suspicious Activity Reporting using the Protected Web Server (PWS).
2. *OMB approval number:* 3150–0219.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion. Reporting is done on a voluntary basis, as suspicious incidents occur.
6. *Who will be required or asked to respond:* Nuclear power reactor licensees provide the majority of reports, but other entities that may voluntarily send reports include fuel facilities, independent spent fuel storage installations, decommissioned power reactors, power reactors under construction, research and test reactors, agreement states, non-agreement states, as well as users of byproduct material (*e.g.* departments of health, medical centers, steel mills, well loggers, and radiographers.)
7. *The estimated number of annual responses:* 124.
8. *The estimated number of annual respondents:* 62.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 248 hours.
10. *Abstract:* NRC licensees voluntarily report information on suspicious incidents on an ad-hoc basis, as these incidents occur. This information is shared with authorized nuclear industry officials and Federal, State, and local government agencies using PWS. Information provided by licensees is considered OFFICIAL USE ONLY and is not made public.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 31st day of August, 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–21539 Filed 9–7–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 40–2259, 70–7015, 70–1257, 70–3098; NRC–2016–0184]

Eagle Rock Enrichment Facility and Lucky Mc Uranium Mill; Consideration of Approval of Transfer of Licenses and Conforming Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect and direct transfer of licenses; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received, and is considering approval of, an application filed by AREVA, Inc. on July 25, 2016. The application seeks the NRC's consent to: The indirect transfer of control of special nuclear material License SNM–2015 governing the proposed Eagle Rock uranium enrichment facility (EREF) that may later be constructed and operated; the direct transfer of control of source material License SUA–672 for the Lucky Mc Uranium Mill; and the direct transfer of control of Export Licenses XSOU8780, XSNM3643, and XSNM3722. If approved, the transfer of License SNM–2015 would be from AREVA Enrichment Services LLC (AES), to AREVA Nuclear Materials, LLC. The transfer of License SUA–672 and Export License XSOU8780 would be from AREVA, Inc. to AREVA Nuclear Materials, LLC. The transfer of Export Licenses XSNM3643 and XSNM3722 would be from AREVA, Inc. to TN Americas, LLC. In its application, AREVA, Inc. also requests approval of its proposed conforming amendments to reflect the new names of the "AREVA Nuclear Materials, LLC" and "TN Americas, LLC," which would hold the

licenses to be transferred if the NRC consents to the transfers.

DATES: A request for a hearing must be filed by September 28, 2016. Written comments may be filed by October 11, 2016.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0184. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.gallagher@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearingdocket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Osiris Siurano, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7827, email: *Osiris.Siurano-Perez@nrc.gov;* Nuclear Regulatory Commission, Washington, DC, 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0184 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0184.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0184 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

Pursuant to Section 184 of the Atomic Energy Act of 1954 (AEA), as amended, and title 10 of the *Code of Federal Regulations* (10 CFR) §§ 30.34(b)(1), 40.46, 70.36, and 110.50(d), AREVA Inc. has requested that the NRC approve several license transfers in connection with its planned internal reorganization involving the AREVA family of companies that operate in the United States under NRC licenses. Under the referenced regulations, no NRC license and no right thereunder to possess or utilize licensed material shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Commission shall, after securing full information, finds that the transfer is in accordance with the provisions of the AEA, and gives its consent in writing.

AREVA, Inc.'s July 25, 2016, submittal (ADAMS No. ML16207A715) includes organizational charts showing the current overall corporate structure. The ultimate parent of the NRC-licensed entities is AREVA SA, a company organized under the laws of France. Under AREVA SA is AREVA NP SAS (also organized under the laws of France), which owns 100 percent of the shares of AREVA Inc. After the planned internal reorganization, AREVA SA would remain the ultimate parent and sole owner of AREVA NP SAS, and New AREVA Holdings SAS would be the new intermediate parent company of AREVA Nuclear Materials, LLC. Existing controls over access to classified or other protected information would remain in place. The submittal further states that the planned reorganization, if approved, would not result in any physical or operational changes relating to the licensed programs for any of the affected NRC licensees; and that there would not be any changes in organization, location, facilities, equipment or procedures that relate to the licensed programs under which the NRC licenses operate.

The Radiation Safety Officers would remain the same. No changes are being proposed to any authorized users, or to any other persons identified on the licenses as having responsibility for radiation safety, or who are otherwise authorized to use NRC-licensed material. AREVA Inc.'s submittal provides written notification to the NRC concerning its planned internal reorganization, which is scheduled to be implemented on October 1, 2016.

AREVA, Inc.'s July 25, 2016, submittal also includes a request that the NRC confirm that the proposed reorganization would not involve any transfer of control of Construction Authorization Number CAMOX–001 (for the MOX Fuel Fabrication Facility) that would need NRC's prior consent pursuant to 10 CFR 70.36. Specifically, the submittal states that AREVA Inc. owns a minority, 30 percent (30%), non-controlling interest in CB&I AREVA MOX Services, LLC (MOX Services), which holds CAMOX–001. AREVA Inc.'s ownership interests in MOX Services would be transferred to AREVA Nuclear Materials, LLC, but the submittal states that this proposed transfer would not affect CB&I's controlling 70 percent (70%) interest in MOX Services.

The July 25, 2016, submittal further reflects that the SNM–2015 license authorizes AES to possess and use source and special nuclear material at EREF, a proposed gas centrifuge uranium enrichment facility that would be located in Bonneville County, Idaho. The SUA–672 license authorizes AREVA Inc. to possess source material and byproduct material in the form of uranium mill tailings and waste at the Lucky Mc Uranium Mill in Fremont County, Wyoming. Though the Lucky Mc Uranium Mill license would be transferred from AREVA Inc. to AREVA Nuclear Materials, LLC, the submittal states that the new licensee would not make any changes to the current personnel, and therefore no new training would be required. Export License XSOU8780 authorizes AREVA Inc. to export up to a cumulative total of 11,000,000 kilograms natural uranium, in the form of uranium hexafluoride (UF_6) to ultimate foreign consignees in France, The Netherlands, Germany, and the United Kingdom, for enrichment up to 5 percent and for ultimate use in nuclear power reactors in EURATOM or return to the United States. Export License XSNM3643 authorizes AREVA Inc. to export up to 195 kilograms U^{235} contained in 975.0 kilograms uranium enriched to 19.95%, in solid form. The ultimate foreign consignee is South Africa. Export License XSNM3722 authorizes AREVA Inc. to export 147 kilograms U^{235} contained in 735 kilograms uranium, enriched to 19.95 percent, in solid form. The ultimate foreign consignees are the Nuclear Research and Consultancy Group and the Mallinckrodt Molybdenum Production Facility, both in The Netherlands.

An NRC administrative review, documented in a letter to AREVA Inc. dated August 31, 2016 (ADAMS Accession No. ML16243A499), found the application acceptable to begin a more detailed technical review. If the application is granted, all of the above referenced licenses would be amended for administrative purposes to reflect the new corporate names.

If the July 25, 2016, request is granted, the NRC licenses would be amended to reflect the licensees' new names and reorganized ownership. Before such license amendments are issued, the NRC will have made the findings required by the AEA and the NRC's regulations. The required findings would be documented in a Safety Evaluation Report, and any necessary NRC orders would be issued. An environmental review of the proposed action will not be performed because, pursuant to 10 CFR 51.22(c)(21), license transfer approvals and associated license amendments are categorically excluded from the requirement to perform an environmental review.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Any person whose interest may be affected by this proposed action and who seeks an NRC hearing regarding the proposed action must file a request for a hearing and a petition to intervene (petition) within 20 days after the date of publication of this notice, pursuant to 10 CFR 2.309(b)(1). Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a petition is filed within 20 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. Additionally, the petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

As required by 10 CFR 2.309, a petition shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest. The petition must also set forth the specific contentions which the petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with the NRC's regulations, policies, and procedures.

Petitions for leave to intervene must be filed no later than 20 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 20-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1), and may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/adjudicatory-sub.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a petition. Submissions should be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 7 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a petition will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

VI. Opportunity To Provide Written Comments

Pursuant to 10 CFR 2.1305, as an alternative to requesting a hearing, persons may submit written comments regarding the license transfer applications. Any such comments should be submitted within 30 days from the date of publication of this notice, in accordance with 10 CFR 2.1305(b). The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

Dated at Rockville, Maryland, this 1st day of September, 2016.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–21472 Filed 9–7–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0024]

Information Collection: Reporting of Defects and Noncompliance

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is titled, ''Reporting of Defects and Noncompliance.''

DATES: Submit comments by November 7, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0024. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0024 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0024.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML16147A548.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2016–0024 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 21, ''Reporting of Defects and Noncompliance.''
2. *OMB approval number:* 3150–0035.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion. Defects and noncompliances are reportable as they occur.
6. *Who will be required or asked to respond:* Individual directors and responsible officers of firms constructing, owning, operating, or supplying the basic components of any facility or activity licensed under the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, as amended, to report immediately to the NRC the discovery of defects in basic components or failures to comply that could create a substantial safety hazard.
7. *The estimated number of annual responses:* 530 (177 reporting responses + 3 third party disclosure responses + 350 recordkeepers).
8. *The estimated number of annual respondents:* 350.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 43,425 hours (17,883 hours reporting + 25,257 hours recordkeeping + 285 hours third-party disclosure).
10. *Abstract:* Part 21 of title 10 of the *Code of Federal Regulations* (10 CFR), requires each individual, corporation, partnership, commercial grade dedicating entity, or other entity subject to the regulations in this part to adopt appropriate procedures to evaluate deviations and failures to comply to determine whether a defect exists that could result in a substantial safety hazard. Depending upon the outcome of the evaluation, a report of the defect

must be submitted to the NRC. Reports submitted under 10 CFR part 21 are reviewed by the NRC staff to determine whether the reported defects or failures to comply in basic components at the NRC licensed facilities or activities are potentially generic safety problems. These reports have been the basis for the issuance of numerous NRC Generic Communications that have contributed to the improved safety of the nuclear industry. The records required to be maintained in accordance with 10 CFR part 21 are subject to inspection by the NRC to determine compliance with the subject regulation.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 31st day of August, 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–21541 Filed 9–7–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–269; CP2016–270]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 9, 2016 (Comment due date applies to all Docket Nos. listed above)

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–269; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 6 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* August 31, 2016; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 9, 2016.

2. *Docket No(s).:* CP2016–270; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal ; *Filing Acceptance Date:* August 31, 2016; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 9, 2016.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–21502 Filed 9–7–16; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78745; File No. SR–BatsEDGX–2016–48]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delay the Implementation of the Options Regulatory Fee

September 1, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2016, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to delay implementation of recently enacted amendments to the fee schedule applicable to Members [5] and non-Members of the Exchange pursuant to EDGX Rules 15.1(a) and (c) to adopt an Options Regulatory Fee ("ORF").

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently submitted a proposed rule change to modify the fee schedule applicable to the Exchange's options platform ("EDGX Options") to adopt an ORF in the amount of $0.0002 per contract side.[6] The Exchange proposed to assess the per-contract ORF to each Member and non-Member for all options transactions cleared by OCC in the "customer" range, regardless of the exchange on which the transaction occurs. In order to provide market participants additional time to assess the impact of the ORF on their transactions and order execution scenarios, the Exchange is delaying the implementation date of the fee until February 1, 2017.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[8] The Exchange also believes that its proposal furthers the objectives of Section 6(b)(5) of the Act [9] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes delaying the implementation of ORF will provide market participants additional time to assess the impact of the ORF on their transactions and order execution scenarios, and that implementation of the fee on February 1, 2017 will benefit investors and the public interest.[10]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The ORF is not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. Therefore, the Exchange does not believe delaying the implantation of ORF till February 1, 2017 will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsEDGX–2016–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsEDGX–2016–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

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[5] A member is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] *See* Securities Exchange Release No. 78452 (August 1, 2016), 81 FR 51951 (August 5, 2016) (SR–BatsEDGX–2016–33).

[7] The Exchange noted in its proposal and included text in its fee schedule that it may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. *Id. See also* the Exchange's fee schedule available at *http://batstrading.com/support/fee_schedule/edgx/* (dated August 5, 2016). The Exchange initially filed the proposed fee change on August 11, 2016 (SR–BatsEDGX–2016–43). On August 19, 2016, the Exchange withdrew SR–BatsEDGX–2016–43 and submitted SR–BatsEDGX–2016–47. On August 22, 2016, the Exchange withdrew SR–BatsEDGX–2016–47 and submitted this filing.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] The Exchange notes that other exchanges have delayed the implementation of fees that were previously published by the Commission. *See* Securities Exchange Act Release Nos. 72605 (July 14, 2014), 79 FR 42066 (July 18, 2014) (SR–Phlx–2014–44); 67068 (May 29, 2012), 77 FR 33256 (June 5, 2012) (SR–Nasdaq–2012–064); 66287 (February 1, 2012), 77 FR 6161 (February 7, 2012) (SR–FINRA–2012–008); *and* 57183 (January 22, 2008), 73 FR 5249 (January 29, 2008) (SR–Nasdaq–2008–007).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsEDGX–2016–48, and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78761; File No. SR–NSX–2016–04]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 11.18 To Address the Exchange's Liability for System Failures; Amend Rule 2.11 To Provide for an Error Account Maintained by the Exchange's Routing Broker; Adopt Rule 11.11(e) To Allow Cancellation of Orders When a System Failure Occurs; Amend Rule 1.5 To Reposition the Definition of a Trading Center; and Make Other Non-Substantive and Conforming Changes

September 2, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 29, 2016, National Stock Exchange, Inc. ("NSX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii)[4] thereunder, which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to: (i) amend NSX Rule 11.18, entitled "LIMITATION OF LIABILITY," to allow the Exchange to provide compensation for losses sustained as a result of an Exchange trading system ("System")[5] failure ("System Failure") or through a negligent act or omission of an Exchange employee; (ii) adopt new NSX Rule 11.11(e), entitled Cancellation of Orders By NSX and NSX Securities,[6] to provide authority to cancel orders as deemed to be necessary to maintain fair and orderly markets if a System Failure occurs; (iii) amend NSX Rule 2.11, currently entitled NSX Securities, LLC, to provide for an error account maintained by NSX Securities, LLC ("NSXS"); and (iv) make changes to certain definitional sections and adopt other non-substantive and ministerial amendments. The Exchange has designated this proposal as "non-controversial" and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[7]

The text of the proposed Rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (i) amend NSX Rule 11.18 to establish a procedure to compensate Equity Trading Permit ("ETP") Holders[8] for System Failures; (ii) adopt Rule 11.11(e), Cancellation of Orders By NSX or NSX Securities, to provide that NSX or NSXS may cancel orders as deemed necessary to maintain fair and orderly markets if a System Failure occurs at NSX, or at a routing broker in connection with the routing function provided under NSX Rules 2.11 and 11.15, or at another trading center to which an NSX order has been routed; (iii) amend NSX Rule 2.11 to describe the operation of an error account maintained by NSXS as the Exchange's outbound order routing facility and by other routing broker-dealers that may be used to liquidate unmatched executions when a System Failure occurs; and (iv) amend NSX Rule 1.5 to add the definition of a "Trading Center" by repositioning the definition from its current placement in NSX Rule 2.11(a) and make changes to NSX Rule 11.15(a)(ii)(A) and 11.15(a)(ii)(B) in connection therewith. The Exchange is also proposing certain non-substantive, ministerial amendments to Rules 1.5, 2.11 and 11.18.

Proposed Amendments to NSX Rule 11.18—Limitation of Liability

Currently, Rule 11.18 provides that neither the Exchange nor Exchange-related persons, which are defined in current NSX Rule 11.18(A) as the Exchange's "agents, employees, contractors, officers, directors, committee members or affiliates," shall be liable to any User,[9] ETP Holder or persons associated therewith, for any loss, damage, claim or expense growing out of, *inter alia,* the use or enjoyment of the System or any facility of the Exchange. The Exchange is proposing to amend Rule 11.18 to provide for the payment of claims by ETP Holders for losses sustained either as a result of a

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] Rule 1.5S.(4) defines the "System" as the ". . .electronic securities communications and trading facility designated by the Board through which orders. . .are consolidated for ranking and execution."

[6] NSX Securities, LLC is a facility of the Exchange as defined in Section 3(a)(2) of the Exchange Act, 15 U.S.C. 78c(a)(2) and, as such, is subject to Section 6 of the Exchange Act, 15 U.S.C. 78f. The Exchange is responsible for filing with the Commission rule changes and fees relating to the outbound router function of NSXS.

[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] Rule 1.5E.(1) defines "ETP" as an Equity Trading Permit issued by the Exchange to a registered broker or dealer for effecting approved securities transactions on the Exchange's trading facilities.

[9] A "User" is defined in Exchange Rule 1.5U.(1) as ". . .any ETP Holder or Sponsored Participant who is authorized to obtain access to the System[.]"

System Failure, which is defined in proposed paragraph (d)(2) of NSX Rule 11.18 as "an actual malfunction in the physical equipment and/or programming in the Exchange's system or facilities that results in an incorrect execution or no execution of a valid, marketable order that was received and acknowledged by Exchange systems," or losses sustained through the negligent acts or omissions of an Exchange employee. The proposal will allow the Exchange to compensate an ETP Holder, subject to specific monetary limits, for losses that can be established as having resulted from such an occurrence.

The Exchange proposes that, as to any one or more claims made by a single ETP Holder under the proposed rule for losses occurring on a single trading day, the Exchange shall not be liable in excess of the greater of $100,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.[10]

As to the aggregate of all claims made by all ETP Holders under the proposed rule for losses occurring on a single trading day, the Exchange shall not be liable in excess of the greater of $250,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.[11] For the aggregate of all claims made by all ETP Holders under the proposed rule during a single calendar month, the Exchange shall not be liable in excess of the greater of $500,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.[12]

As proposed in new subparagraph (d)(6) of the rule, in the event that all of the claims made under Rule 11.18 cannot be fully satisfied because in the aggregate they exceed the applicable maximum limitations provided in the rule, then the maximum permitted amount will be proportionally allocated among all such claims arising during a single trading day or single calendar month based on the proportion that each such claim bears to the total amount of all such claims.

Further, the Exchange is proposing in new subparagraph (d)(7) of the rule to require that any claims for reimbursement shall be in writing and must be submitted before the close of Regular Trading Hours[13] on the next business day following the day on which the use of the System or Exchange facilities, or the purported negligent acts or omissions of an Exchange employee, gave rise to the claim. Additionally, pursuant to proposed new subparagraph (d)(8), in reviewing claims by ETP Holders pursuant to NSX Rule 11.18(d), the Exchange will verify that: (i) a valid order was entered by the ETP Holder and accepted and acknowledged by the System; (ii) a System Failure or a negligent act or omission by an Exchange employee occurred during the handling or execution of that order; and (iii) the ETP Holder's loss resulted from the System Failure or negligent act or omission by an Exchange employee. The Exchange will also assess the extent to which the conduct of the ETP Holder may have contributed to the loss and may adjust the amount to be paid on the claim accordingly.

The Exchange's proposed rule amendments are similar to rules adopted by a number of other national securities exchanges that allow for limited compensation for losses resulting from system malfunctions or negligent acts or omissions of exchange employees.[14] For example, NYSE Arca Equities ("NYSE Arca") Rule 13.2(b) is substantively the same as proposed NSX Rule 11.18(d)(1) in its description of the occurrences that give rise to a claim for compensation. The process that the Exchange proposes to use in order to verify a claim for compensation by an ETP Holder under proposed Rules 11.18(d)(7) and (d)(8) is similar to the process described in the rules of Bats BZX Exchange, Inc. ("BZX"),[15] Bats BYX Exchange, Inc. ("BYX"),[16] Bats EDGA Exchange, Inc. ("EDGA"),[17] and Bats EDGX Exchange, Inc. ("EDGX").[18] In each of these exchange's rule sets, the exchange verifies that: (i) a valid order was entered and accepted and acknowledged by the exchange's system; and (ii) a system failure or negligent act or omission of an exchange employee occurred during the handling or execution of that order. The Exchange's proposed Rule 11.18(d)(8), however, specifies that the review process of claims will include verification that the ETP Holder's loss resulted from a System Failure or a negligent act or omission by an Exchange employee, as well as the extent to which the ETP Holder's conduct may have contributed to the loss; the amount to be paid on the claim may be adjusted by the Exchange as a result. In this regard, the proposed rule is similar to New York Stock Exchange ("NYSE") Rule 18(d), which provides, in relevant part, that the review of a claim for compensation "will determine whether the amount claimed should be reduced based on the actions or inactions of the claiming member organization, including whether the member organization made appropriate efforts to mitigate its loss."

Additionally, the Exchange provides for the same monetary compensation formula under proposed subparagraphs (d)(3)–(5) of Rule 11.18 as do the BZX,[19] BYX,[20] EDGA,[21] and EDGX[22] exchanges in their respective liability rules. The Exchange proposes to adopt the rule amendments proposed in this filing in order to have similar authority as other national securities exchanges in those circumstances, and thereby promote consistency among exchange rules.

The Exchange also proposes ministerial amendments to amend Rule 11.18(A)–(C) to adjust the lettering from its current all upper case format to lower case (*i.e.*, Rule 11.18(a), 11.18(b) and 11.18(c)) and to adjust the text in those paragraphs to be consistent with style of text used throughout the Exchange's rule book.

Proposed NSX Rule 11.11(e)

The Exchange is proposing to adopt NSX Rule 11.11(e), entitled Cancellation of Orders By NSX or NSX Securities. As proposed, the rule will provide that NSX, NSXS, or a third-party routing broker may cancel orders as deemed to be necessary to maintain fair and orderly markets if and when a systems, technical, or operational issue occurs at NSX, NSXS, or at a third-party routing broker in connection with the routing function provided under NSX Rules 2.11 and 11.15[23] or at another Trading Center to which an NSX order has been routed. A routing broker may only cancel orders routed to another Trading Center based on NSX's standing or specific instructions or as otherwise provided in the Exchange's rules.[24] NSX shall provide notice of the cancellation to each affected ETP Holder via telephonic communication and/or electronic mail as soon as practicable.

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[10] Proposed Rule 11.18(d)(3).

[11] Proposed Rule 11.18(d)(4).

[12] Proposed Rule 11.18(d)(5).

[13] Rule 1.5R.(1) defines "Regular Trading Hours" as the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[14] *See* Securities Exchange Act Release No. 56085 (July 17, 2007), 72 FR 40348 (July 24, 2007) (SR–NYSE–2007–09) (relating to amendments to New York Stock Exchange Rule 18); Securities Exchange Act Release No. 60794 (October 6, 2009), 74 FR 52522 (October 13, 2009) (SR–NASDAQ–2009–084) (relating to amendments to NASDAQ Rule 4626); Securities Exchange Act Release No. 58872 (October 28, 2008), 73 FR 65901 (November 5, 2008) (SR–BATS–2008–008 (relating to amendments to Bats Exchange, Inc. Rule 11.16); *see also* NYSE Arca Equities Rule 13.2.

[15] *See* BZX Rule 11.16(f).

[16] *See* BYX Rule 11.16(f).

[17] *See* EDGA Rule 11.14(f).

[18] *See* EDGX Rule 11.14(f).

[19] *See* BZX Rule 11.16(d)(1)–(3).

[20] *See* BYX Rule 11.16(d)(1)–(3).

[21] *See* EDGA Rule 11.14(d)(1)–(3).

[22] *See* EDGX Rule 11.14(d)(1)–(3).

[23] Rule 11.15, Order Execution, describes the process for the execution of orders on NSX and for orders routed to other Trading Centers.

The Exchange is proposing Rule 11.11(e) to gain the explicit authority to cancel orders in the event of a System Failure that, if not promptly addressed, could be detrimental to the maintenance of fair and orderly markets.[25] This provision would apply in all situations, and not be limited to the routing function. Other national securities exchanges have adopted rules that, like proposed Rule 11.11(e), provide the authority to cancel orders as deemed necessary for the maintenance of fair and orderly markets.[26] The requirement for NSX to provide notice of any such cancellation to the affected ETP Holders as soon as practicable will benefit market participants by allowing them to determine alternatives in the handling of their orders.

In addition, the Exchange is proposing to make ministerial, non-substantive amendments to Rule 11.11(d) by renumbering current subparagraphs (i) through (iv) as subparagraphs (1) through (4). NSX is not proposing any changes to the rule text of these subparagraphs. The Exchange is making this change to align the subparagraph numbering under NSX Rule 11.11(d) with the numbering used in other sections of Rule 11.11.

Proposed Amendments to NSX Rule 2.11

NSXS is the Exchange's outbound order routing facility. From time to time, the Exchange, NSXS or one or more unaffiliated third-party routing broker-dealers used by the Exchange to access other Trading Centers may encounter situations in which it becomes necessary to cancel orders and resolve one or more error positions.

The Exchange proposes to amend Rule 2.11 to provide that NSXS and any third-party routing broker-dealer used by the Exchange to route orders to other Trading Centers (collectively, the "Routing Broker") shall maintain an account for the purpose of addressing positions that result from a systems, technical or operational issue at the Exchange, the Routing Broker, or the destination Trading Center that affects one or more orders ("Error Position").[27] Specifically, under proposed Rule 2.11(a)(5), the Routing Broker would be required to maintain an error account for the purpose of liquidating an Error Position acquired as a result of a System Failure experienced by the Routing Broker, the Exchange or at a Trading Center, in connection with the order routing process. The proposed amendments provide that the Routing Broker would only assume an Error Position in its error account under documented circumstances when the Error Position could not fairly and practicably be assigned to one or more ETP Holders or if the Exchange determines to cancel all orders affected by the technical or systems issue. Such circumstances include if an economic harm would result or it would otherwise be to the economic detriment of the ETP Holder or its customer.

Proposed subparagraph (a)(5)(i) of Rule 2.11 provides that errors to which the rule applies include those caused by any act or omission by NSX, a Routing Broker, or at another Trading Center to which an order has been routed and that results in an unmatched trade position, *i.e.,* an execution of a routed order for which there is no corresponding order with which to pair the execution (each a "routing error"). Such routing errors would include, without limitation, positions resulting from determinations by NSX or a Routing Broker to cancel an order pursuant to proposed NSX Rule 11.11(e).

As proposed in Rule 2.11(a)(5)(ii), if the Exchange or the Routing Broker reasonably determines that there is accurate and sufficient information (including valid clearing information) to assign the positions to all of the ETP Holders affected by that systems, technical or operational issue, sufficient time pursuant to normal clearance and settlement deadlines to evaluate the information necessary to assign the positions to all of the ETP Holders affected by that systems, technical or operational issue, and has not determined to cancel all orders affected by that systems, technical or operational issue, the Exchange or NSXS [sic] will assign the full amount of the resulting Error Position to one or more ETP Holders. The ETP Holder would then be responsible for liquidating the position in its own error account. To the extent that the Error Position resulted from a System Failure at the Exchange or the Routing Broker, the affected ETP Holder would have the ability to file a claim for reimbursement pursuant to the proposed amendments to NSX Rule 11.18 discussed above.

As an example of such a situation, if ETP Holder A placed an order to buy 100 shares of symbol XYZ, and a System Failure caused the Routing Broker to route an order for the wrong number of shares (*e.g.,* 1,000 shares), or route an order for the correct number of shares but in the wrong symbol (*e.g.,* symbol XYY instead of XYZ) then, in either situation, the Routing Broker would assign to ETP Holder A the full amount of the resulting Error Position (in the above examples, with respect to the incorrect size, 1,000 shares of XYZ, of which 900 shares would be the Error Position or, with respect to the incorrect symbol, 100 shares of XYY). Under these circumstances, because the Error Position would have been caused by an Exchange or Routing Broker System Failure, ETP Holder A would be permitted to submit a claim for reimbursement to the Exchange, subject to the requirements and limitations of proposed NSX Rule 11.18(d), to the extent that ETP Holder A incurred a loss after trading out of the Error Position.

Proposed Rule 2.11(a)(5)(iv) states that, except to facilitate the clearing and settlement process where a systems, technical or operational issue prevents an ETP Holder from providing valid clearing instructions, the Routing Broker shall not accept any positions in such error account from an account of an ETP Holder or permit any ETP Holder to transfer any positions from the ETP Holder's account to a Routing Broker error account. The exception is set forth in Rule 2.11(a)(5)(v) and permits the Routing Broker, in the absence of valid clearing information attributable to a systems, technical or operational issue, to assume that ETP Holder's side of the trade so that the trade can be automatically processed for clearing and settlement on a locked-in basis pursuant to Rule 11.17(b).

Proposed Rule 2.11(a)(6) requires the Routing Broker to liquidate the Error Positions as soon as practicable. The Routing Broker could determine to liquidate the position itself or have a third-party broker-dealer liquidate the position on the Routing Broker's behalf. Further, proposed subparagraph (a)(6)(i) requires that NSX and NSXS provide complete time and price discretion for the trading to liquidate the Error Positions to a third-party broker-dealer and shall not attempt to exercise any influence or control over the timing or methods of such trading. Subparagraph (a)(6)(ii) provides that NSX and NSXS shall establish, maintain, and enforce written policies and procedures reasonably designed to restrict the flow of confidential and proprietary information associated with the liquidation of the Error Positions in accordance with NSX Rule 2.11,[28] and prevent the use of information associated with other orders subject to the routing service when making determinations regarding the liquidation of Error Positions. In addition, subparagraph (a)(6)(iii) provides that NSX and NSXS shall make and keep records to document all determinations to treat positions as Error Positions and all determinations for the assignment of Error Positions to ETP Holders or the liquidation of Error Positions, as well as records associated with the liquidation of Error Positions through a third-party broker dealer in accordance with Rule 17a–4 under the Exchange Act.[29]

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[24] *See, e.g.,* Rule 11.11(d), Cancel/Replace Messages and Rule 11.15(c), Special Rules for Orders Routed to Other Trading Centers.

[25] The definition of "maintenance of fair and orderly markets" includes, but is not limited to, the prevention of situations that would create a potential market dislocation or result in executions that would operate to cause an economic harm to a market participant were the order or orders at issue to be executed.

[26] Examples of other exchange rules providing authority to cancel orders to maintain fair and orderly markets include NYSE Arca Rule 7.45(d)(1); BZX Rule 2.11(a)(6); BYX Rule 2.11(a)(6); EDGA Rule 2.11(a)(6); EDGX Rule 2.11(a)(6); and Chicago Stock Exchange Article 20, Rule 12(a).

[27] The Exchange notes that, in connection with providing the routing function, a non-affiliated Routing Broker currently may utilize its own error account to liquidate Error Positions. It is reasonable and appropriate to address routing errors through the error account maintained by a non-affiliated Routing Broker because, among other reasons, the non-affiliated Routing Broker is, in fact, the executing broker associated with these transactions.

The Exchange notes that, in certain circumstances, NSX and its Routing Broker may not learn about an Error Position until the following business day ("T+1"). Examples of such situations include (i) during the clearing process when a routing destination has submitted to Depository Trust Clearing Corporation ("DTCC") a transaction for clearance and settlement for which NSX or the Routing Broker never received an execution confirmation; or (ii) when another Trading Center does not recognize a transaction submitted by a Routing Broker to DTCC for clearance and settlement. The affected ETP Holder's trade(s) cannot be nullified absent express authority under Exchange Rules.[30] Accordingly, the Exchange believes that the use of an error account to liquidate the Error Positions that may occur in these circumstances is reasonable and appropriate.

The Exchange's proposed assignment process is designed to ensure that an Error Position is assigned to ETP Holders in a non-discriminatory manner because the Exchange would attempt to assign an Error Position to an ETP Holder in every instance. If the Routing Broker reasonably concludes that it is unable to trace each erroneous execution comprising an Error Position back to one or more ETP Holder's orders, then the Routing Broker will assume the entire amount of the Error Position in its error account. Moreover, under proposed Rule 2.11(a)(5)(iii), if the Routing Broker reasonably concludes, due to the number of erroneous executions and/or the number of ETP Holders potentially affected, that it would not be able to trace each erroneous execution comprising an Error Position back to such ETP Holders in a timely manner (which will be defined to mean by the end of Regular Trading Hours on the first business day following the trade date on which the Error Position was established (T+1)), then the Routing Broker will assume the entire amount of the Error Position in its error account. When an Error Position is acquired in the NSXS error account or the error account of an unaffiliated routing broker-dealer, it will be liquidated as soon as practicable pursuant to proposed subparagraph (a)(6) of NSX Rule 2.11.

The Exchange also proposes two ministerial amendments to Rule 2.11. First, the Exchange proposes to remove the comma in the title of the Rule to align with the actual corporate name of NSX Securities. Second, the Exchange proposes to amend Rule 2.11(a) to add "NSXS" as an abbreviated term for NSX Securities LLC.

Definition of Trading Center

The Exchange proposes to move the definition of "Trading Center" from NSX Rule 2.11, which pertains to NSXS, to NSX Rule 1.5, which contains definitions generally used throughout the Exchange's rules. Under NSX Rule 2.11(a), "Trading Center" is defined as "other securities exchanges, facilities of securities exchanges, automated trading systems, electronic communication networks or other brokers or dealers." The Exchange does not propose to amend the definition of "Trading Center."

The Exchange submits that relocating the definition of "Trading Center" to the Exchange's general definitional rule will enhance the clarity and ease of reference of the Exchange's Rules. With this change, the Exchange will change NSX Rule 11.15(a)(ii)(A) and (B) to remove the clause "(as defined in NSX Rule 2.11)" in reference to the definition of Trading Center, because the clause is no longer applicable.

Lastly, the Exchange proposes to remove the word "all" from the first sentence of Rule 1.5, as the inclusion of the word is unnecessary.

2. Statutory Basis

The Exchange submits that the proposed rule change is consistent with Section 6 of the Act[31] and the Rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[32] Specifically, the Exchange submits that the proposal furthers the objectives of Section 6(b)(5),[33] in particular, as it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, brokers or dealers. The Exchange submits that, in general, this proposal is in keeping with those principles.

The proposed amendments to NSX Rule 11.18 are consistent with Section 6(b)(5) of the Act in that they promote just and equitable principles of trade by providing the Exchange with the authority to compensate ETP Holders for losses resulting from System Failures or the negligent conduct of an Exchange employee, in amounts up to the monetary limitations set forth in subparagraphs (d)(3) through (d)(5) of NSX Rule 11.18. Currently, market participants experiencing a loss as a result of such an occurrence have no ability under Exchange rules to obtain any compensation from the Exchange. The proposed amendments would enable the Exchange to provide reasonable and equitable compensation to parties who sustained losses as a result of failure on the part of the Exchange to properly handle an order. Other exchanges have recognized the need to provide such relief and have amended their general liability rules to permit limited compensation under defined circumstances.[34]

The Exchange believes that the rule provisions that establish the process for an ETP Holder to obtain compensation under the rule are consistent with

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[28] Proposed Rule 2.11(a)(6)(ii) provides that NSX or NSXS shall establish, maintain and enforce written policies and procedures reasonably designed to restrict the flow of confidential and proprietary information associated with the liquidation of the Error Positions in accordance with Rule 2.11, and prevent the use of information associated with other orders subject to the routing services when making determinations regarding the liquidation of Error Positions.

[29] *See* 17 CFR 240.17a–4.

[30] *See, e.g.,* Rule 11.19, Clearly Erroneous Executions.

[31] 15 U.S.C. 78f.

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(5).

[34] *See* note 14, *supra.*

Section 6(b)(5) of the Act in that they provide a clear definition of what constitutes a System Failure (*i.e.,* an actual malfunction in the physical equipment and/or programming in the Exchange's systems or facilities that results in an incorrect execution or no execution of a valid, marketable order that was received and acknowledged by Exchange systems) and establish a transparent process for ETP Holders to submit a claim for compensation pursuant to the rule. Specifically, a claim for compensation must be submitted by the close of Regular Trading Hours on the next business day following the occurrence that gives rise to the claim. This time frame is sufficient for ETP Holders to gather information and submit a claim, while also requiring that claims be submitted in a timely manner. Thus, the time window for submission of a claim is reasonable because it balances the Exchange's interest in timely submission with the ETP Holder's interest in having enough time to prepare and submit a claim.

Similarly, the Exchange believes that provisions of proposed Rule 11.18(d)(8) that establish the criteria for reviewing claims for compensation provide for a transparent process in which the Exchange will verify that: (i) A valid order was entered by the ETP Holder and accepted and acknowledged by the Exchange's system; (ii) an Exchange system failure or a negligent act or omission by an Exchange employee occurred during the handling or execution of that order; and (iii) that the ETP Holder's loss resulted from such system failure or negligent act or omission. The Exchange will assess the extent to which the ETP Holder's conduct may have contributed to the loss and may adjust the amount to be paid on the claim by the Exchange.

The Exchange believes that these provision are designed to, and will operate to, further the objectives of Section 6(b)(5) by promoting just and equitable principles of trade, removing impediments to and perfecting the mechanism of a free and open market and a national market system and, in general, protecting investors and the public interest. The amendments contained in NSX Rule 11.18(d) provide clear standards for addressing claims and are available to all ETP Holders, and are not designed to permit unfair discrimination between customers, brokers or dealers, thus meeting the requirement of Section 6(b)(5).

Proposed Rule 11.11(e) is consistent with Section 6(b)(5) of the Act in that it will allow NSX, NSXS, or a third-party routing broker to cancel orders when it deems such action to be necessary for the maintenance of fair and orderly markets if a System Failure occurs. As proposed, the Exchange submits that the ability to take action to mitigate potential harm to market participants in cases where the handling of an order is affected by a System Failure will operate to promote just and equitable principles of trade and protect investors and the public interest.

The proposed amendments to Rule 2.11(a)(5) and (a)(6) governing the process for liquidating errors resulting from a technical or systems issue affecting the routing function, and the requirements for an error account maintained by the Routing Broker, are consistent with Section 6(b)(5) of the Act in that they are designed to provide a uniform and consistent approach to handling such errors, thereby promoting just and equitable principles of trade. As noted above and as further described in Section 8 of the Exchange's rule filing, the Exchange's proposed rule amendments align to a significant degree with the rules of other national securities exchanges and, in that regard, the proposed amendments operate to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest.

Finally, the Exchange submits that its proposed ministerial, non-substantive amendments to certain rules, as discussed above, are consistent with Section 6(b)(5) of the Act. The changes are designed to promote consistency, transparency and ease of reference in the Exchange's Rules, and will thereby operate to promote just and equitable principles of trade and the protection of investors and the public interest as required by Section 6(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. Allowing the Exchange to have the authority to address System Failures in a timely manner, including by canceling an order where deemed necessary to maintain fair and orderly markets, and establishing a framework for compensating market participants for losses, will not burden competition among ETP Holders or among NSX and other exchanges. As noted above, other national securities exchanges have adopted similar rules and the Exchange is seeking to align its error resolution rules and processes with those already widely adopted within the securities industry.[35]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited or received any comments on the proposed rule change from market participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[36] and Rule 19b–4(f)(6) thereunder.[37]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSX–2016–04 on the subject line.

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[35] *See id.*

[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSX–2016–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSX–2016–04 and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21644 Filed 9–7–16; 8:45 am]

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[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78755; File No. SR–NYSEArca–2016–103]

Self-Regulatory Organizations; NYSE Arca Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending Rules 2.17(c) and 2.23(i) To Extend the Time Within Which OTP Holders and OTP Firms Must File a Uniform Termination Notice for Securities Industry Registration ("U5")

September 1, 2016.

On July 14, 2016, NYSE Arca, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rules 2.17(c) and 2.23(i) to extend the time within which OTP Holders and OTP Firms must file a U5. The proposed rule change was published for comment in the **Federal Register** on July 27, 2016.[3] The Commission received no comments in response to the proposal. In response to a related proposed rule change,[4] however, the Commission received a comment letter and a response to those comments from the proposing exchange.[5]

Section 19(b)(2) of the Act[6] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 10, 2016. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the issues raised in the NASAA Letter, as well as those in the response from NYSE MKT LLC., in connection with the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[7] designates October 25, 2016, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2016–103).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21519 Filed 9–7–16; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78381 (July 21, 2016), 81 FR 49286.

[4] *See* Securities Exchange Act Release No. 78198 (June 30, 2016), 81 FR 44363.

[5] *See* letter from Judith Shaw, President, North American Securities Administrators Association, Inc., to Brent J. Fields, Secretary, Securities and Exchange Commission, dated August 3, 2016 ("NASAA Letter") and letter from Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange to Brent J. Fields, Secretary, SEC, dated August 12, 2016.

[6] 15 U.S.C. 78s(b)(2).

[7] *Id.*

[8] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78766; File No. SR–BatsBYX–2016–17]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 11.27 To Describe Changes to System Functionality Necessary To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

September 2, 2016.

I. Introduction

On June 29, 2016, Bats BYX Exchange, Inc. ("Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 11.27(a) to specify that orders entered into the Exchange's Retail Price Improvement ("RPI") Program qualify for certain exceptions to the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan" or "Pilot") and to adopt Exchange Rule 11.27(c) to describe changes to System[3] functionality to implement the Plan.[4] The proposed rule change was published for comment in the **Federal Register** on July 20, 2016.[5] The Commission received one comment letter from the Exchange in response to the Notice.[6] On September 1, 2016, the Exchange filed an amendment to the proposed rule change ("Amendment No. 1"), which supersedes and replaces the proposal in its entirety.[7]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "System" is defined as the "electronic communications and trading facility designated by

This order provides notice of filing of Amendment No. 1 and approves the proposal, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Amended Proposal

The proposed amendments to Exchange Rule 11.27(a) would specify that orders entered into the Exchange's RPI Program would qualify for certain exceptions to the Plan.

Proposed Exchange Rule 11.27(c) would specify the order handling for the following order types in Pilot Securities: (i) BYX Market Orders; (ii) Market Pegged Orders; (iii) Mid-Point Peg Orders; (iv) Discretionary Orders; (v) Market Maker Peg Orders; (vi) Supplemental Peg Orders; and (vii) orders subject to Display-Price Sliding. As proposed, such order handling would apply to all orders entered into the System for Pilot Securities (*i.e.*, Test Group One, Test Group Two, Test Group Three, and the Control Group).

A. Amendment to Exchange Rule 11.27(a)

The proposed amendments to Exchange Rule 11.27(a) would specify that the RPI Program qualifies as a Participant-operated retail liquidity program under the Plan and that Retail Orders[8] entered into the Exchange's RPI Program qualify as Retail Investor Orders under the Plan. Accordingly, amended Exchange Rule 11.27(a)(4), (a)(5), and (a)(6) would allow orders entered into the RPI Program to be ranked and accepted in increments of less than $0.05 in Test Groups One, Two, and Three, respectively; amended Exchange Rule 11.27 (a)(5) and (a)(6) would specify that Retail Orders entered into the Exchange's RPI Program may be provided with price improvement that is at least $0.005 better than the best protected bid and best protected offer ("PBBO")[9] in Test Groups Two and Three, respectively; and amended Exchange Rule 11.27(a)(6)(D) would specify that Retail Orders entered into the Exchange's RPI Program that are executed with at least $0.005 price improvement qualify for the exception to the Trade-at Prohibition in Test Group Three. In addition, amended Exchange Rule 11.27(a)(4) would specify that in Test Group One Pilot Securities trades may continue at any price increment that is permitted under Exchange Rule 11.11, Price Variations.

B. Proposed Exchange Rule 11.27(c)

The Exchange proposes in Exchange Rule 11.27(c) specific procedures for handling, executing, repricing and displaying certain order types and order type instructions. The provisions in proposed Rule 11.27(c) would apply to all Pilot Securities. Further, the Exchange proposes that only the provisions in Exchange Rules 11.27(a) and (b) would be limited to the Pilot Period.[10]

1. BYX Market Orders

Proposed Exchange Rule 11.27(c)(1) provides that for purposes of determining whether the execution price of a BYX Market Order is more than 5 percent worse than the national best bid or offer ("NBBO")[11] under current Exchange Rule 11.9(a)(2), the execution price for a buy (sell) will be rounded down (up) to the nearest permissible increment.[12]

2. Market Pegged Orders

Under Exchange Rule 11.9(c)(8)(B), a Market Pegged Order is pegged to the contra-side NBBO. BYX Users can specify that a Market Pegged Order will offset the inside quote on the contra side of the market by an amount ("Offset Amount"). Under proposed Exchange Rule 11.27(c)(2), the Exchange proposes not to accept Market Pegged Orders, regardless of price, in any Pilot Security.[13]

3. Mid-Point Peg Orders

Under Exchange Rule 11.9(c)(9), the System automatically adjusts the price of a Mid-Point Peg Order in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive midpoint of the NBBO, or one minimum price variation inside the same side of the NBBO as the Mid-Point Peg Order.

Under proposed Exchange Rule 11.27(c)(3), the Exchange proposes that Mid-Point Peg Orders for Pilot Securities would not be permitted to alternatively peg to one minimum price variation inside the same side of the NBBO as the order. [14]

4. Discretionary Orders

Under Exchange Rule 11.9(c)(10), a Discretionary Order is a limit order with a displayed or non-displayed ranked price and size and an additional non-displayed "discretionary price." The Exchange proposes to not accept Discretionary Orders, regardless of price, in any Pilot Security.[15]

5. Market Maker Peg Orders

Under Exchange Rule 11.9(c)(16), a Market Maker Peg Order is a limit order that is automatically priced by the System at the Designated Percentage (as defined in Exchange Rule 11.8(d)) away from the then current national best bid ("NBB") or national best offer ("NBO"), or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor in order to comply with the quotation requirements for Market Makers set forth in Exchange Rule 11.8(d). The Exchange proposes that Market Marker Peg Orders to buy (sell) be rounded up (down) to the nearest permissible increment when the pricing results in an impermissible increment.

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the Board of Directors of the Exchange through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away." *See* Exchange Rule 1.5(aa).

[4] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order"). Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Plan.

[5] Securities Exchange Act Release No. 78333 (July 14, 2016), 81 FR 47198 ("Notice").

[6] *See* Letter to Brent J. Fields, Secretary, Commission, from Eric Swanson, General Counsel, Exchange, dated July 26, 2016 ("Exchange Letter").

[7] In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.27(c) to all Pilot Securities; (2) clarify in Rule 11.27(c)(1) that the increment for BYX Market Orders and Rule 11.27(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.27(c)(2) that Market Pegged Orders, Rule 11.27(c)(4) that Discretionary Orders, and Rule 11.27(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.27(c)(3) that Mid-Point Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend Non-Displayed Orders; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

[8] A "Retail Order" is defined in Exchange Rule 11.24(a)(2) as an agency order or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member organization ("RMO"), provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any computerized methodology. The Exchange believes that the definition of Retail Order is also substantially similar to the definition of Retail Investor Order under the Plan. *See* Section I(DD) of the Plan.

[9] *See* 17 CFR 242.600(57). *See also* Section I.Z of the Plan.

[10] The Exchange proposes to clarify in the introduction to Exchange Rule 11.27 that only the provisions in 11.27(a) and 11.27(b) would be in effect during the Pilot Period.

[11] *See* Exchange Rule 1.5(o).

[12] *See* Amendment No. 1.

[13] *Id.*

[14] *Id.*

[15] *Id.*

6. Supplemental Peg Orders

Under Exchange Rule 11.9(c)(19), a Supplemental Peg Order is a non-displayed limit order that posts to the Exchange Book and thereafter is eligible for execution at the NBB for buy orders and NBO for sell orders against routable orders that are equal to or less than the aggregate size of the Supplemental Peg Order interest available at that price. The Exchange proposes not to accept Supplemental Peg Orders, regardless of price, for any Pilot Security.[16]

7. Display-Price Sliding

Under Exchange Rule 11.9(g)(1), an order eligible for display by the Exchange, that at the time of entry would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market, would be ranked at the locking price in the Exchange Book and displayed by the System at one minimum price variation below the current NBO (for bids) or one minimum price variation above the current NBB (for offers). The ranked and displayed prices of an order subject to Display-Price Sliding may be adjusted once or multiple times depending on the instructions of a User and changes to the prevailing NBBO.

The Exchange proposes that orders subject to the Display-Price Sliding that are unexecutable at the locking price will be ranked at the midpoint of the NBBO, and displayed one minimum price variation below (above) the current NBO (NBB) for bids (for offers) for all Pilot Securities. In the Control Group, Test Group One, and Test Group Two, these orders would be initially ranked at the locking price and displayed one minimum price variation away. If a subsequent incoming Post-Only Order arrives on the Exchange book on the opposite side, then the orders subject to Display-Price Sliding would be adjusted to rank at the midpoint of the NBBO and continue to be displayed at one minimum price variation away. In Test Group Three, orders subject to Display-Price Sliding would be ranked at the midpoint of the NBBO and displayed at one minimum price variation away. In addition, the Exchange proposes to cancel orders subject to Display-Price Sliding when the NBBO widens and a contra-side Non-Displayed Order is resting on the Exchange Book at a price that such order would adjust, and the User has selected a single price adjustment. Like today, if the User has selected multiple price adjustments an order subject to Display-Price Sliding would not cancel in this scenario.

III. Discussion and Commission's Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, the Commission finds that the proposal, as modified by Amendment No. 1,[17] is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities exchange.[18] Specifically, the Commission finds that the rule change is consistent with Section 6(b)(5) of the Exchange Act, which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted in the Approval Order, the Plan is by design, an objective, data-driven test to evaluate how a wider tick size would impact trading, liquidity, and market quality of securities of smaller capitalization companies. In addition, the Plan is designed with three Test Groups and a Control Group, to allow analysis and comparison of incremental market structure changes on the Pilot Securities and is designed to produce empirical data that could inform future policy decisions.

The Exchange proposes certain changes to modify the operation of the System for compliance with the Plan. For example, the Exchange proposes to clarify how BYX Market Orders and Market Maker Peg Orders would be rounded to permissible increments under the Plan. In addition, the Exchange proposes to reflect its RPI Program in its Tick Pilot Rule. The Commission finds that these changes are consistent with the Section 6(b)(5) of the Exchange Act[19] and Rule 608 of Regulation NMS[20] because they implement the Plan and clarify Exchange rules.

In addition, the Exchange proposes to eliminate certain order types and modify certain order handling functions for Pilot Securities Specifically, the Exchange proposes to no longer accept three order types: Market Peg Orders, Discretionary Orders, and Supplemental Peg Orders. The Exchange noted that these orders are infrequently used in Pilot Securities. The Exchange stated that eliminating these order types for Pilot Securities could reduce System complexity and maintain consistent functionality among all Pilot Securities. Finally, the Exchange noted that these order types would have limited ability to execute under Test Group Three.

The Exchange also proposes to change the handling of orders subject to Display-Price Sliding in Pilot Securities. Orders that are subject to Display Price-Sliding in Pilot Securities that are unexecutable at the locking price will be ranked at the midpoint of the NBBO and displayed one minimum variation away.

Finally, the Exchange proposes to modify the handling of Mid-Point Peg Orders in Pilot Securities. As proposed, Mid-Point Peg Orders would not be able to alternatively peg to one minimum price variation inside the same side of the NBBO as the order. The Exchange noted that there is a de minimis usage of the alternative pegging function in Pilot Securities that does not justify the complexity and risk to the System that would be created by re-programming the System to support the function.

In the Notice, the Commission noted that proposed rule changes, other than those necessary for compliance with Plan, that are targeted at Pilot Securities, that have a disparate impact on different Test Groups and the Control Group, and that are to apply temporarily only for the Pilot Period, could bias the results of the Pilot and undermine the value of the data generated in informing future policy decisions. The Commission notes that the Exchange has modified its proposal so that those proposed changes that are not necessary for compliance with the Plan apply equally to all three Test Groups and the Control Group, and their duration is not limited to the Pilot Period. Thus, the Commission believes that the incremental design of the Pilot is maintained such that the data generated by the Test Groups and the Control Group could allow the Commission and interested parties to compare the change in market structure of each group vis-à-vis the other groups. Further, the Commission does not believe that the changes would bias the results of the Pilot or undermine the value of the data generated in informing future policy decisions.

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[16] *Id.*

[17] The Commission notes that the Exchange Letter was submitted in connection with the Exchange's original proposal. Because the Exchange has filed Amendment No. 1, which supersedes and replaces the Exchange's original proposal in its entirety, the Commission does not believe it is necessary to summarize or respond to the Exchange Letter.

[18] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

[20] 17 CFR 242.608.

Accordingly, the Commission finds that the proposed rule change, as modified by Amendment No.1, is consistent with the requirements of the Exchange Act.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as modified by Amendment No. 1, is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBYX–2016–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBYX–2016–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBYX–2016–17 and should be submitted on or before September 29, 2016.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.27(c) to all Pilot Securities; (2) clarify in Rule 11.27(c)(1) that the increment for BYX Market Orders and Rule 11.27(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.27(c)(2) that Market Pegged Orders, Rule 11.27(c)(4) that Discretionary Orders, and Rule 11.27(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.27(c)(3) that Mid-Point Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend Non-Displayed Orders; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

The Commission believes that Amendment No. 1 modifies the proposal so that it does not cause a disparate impact on different Test Groups and the Control Group. In addition, the Commission notes that the Pilot is scheduled to start on October 3, 2016, and accelerated approval would ensure that the rules of the Exchange would be in place for the start of the Pilot. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[21] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[22] that the proposed rule change (SR–BatsBYX–2016–17), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21649 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

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[21] 15 U.S.C. 78s(b)(2).

[22] *Id.*

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78765; File No. SR–BatsBZX–2016–29]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 11.27 To Describe Changes to System Functionality Necessary To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

September 2, 2016.

I. Introduction

On June 29, 2016, Bats BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 11.27(a) and adopt Exchange Rule 11.27(c) to describe changes to System[3] functionality to implement the Plan.[4] The proposed rule change was published for comment in the **Federal Register** on July 20, 2016.[5] The Commission received one comment letter from the Exchange in response to the Notice.[6] On September 1, 2016, the Exchange filed an amendment to the proposed rule change ("Amendment No. 1"), which supersedes and replaces the proposal in its entirety.[7]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "System" is defined as the "electronic communications and trading facility designated by the Board of Directors of the Exchange through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away." *See* Exchange Rule 1.5(aa).

[4] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order"). Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Plan.

[5] Securities Exchange Act Release No. 78334 (July 14, 2016), 81 FR 47187 ("Notice").

[6] *See* Letter to Brent J. Fields, Secretary, Commission, from Eric Swanson, General Counsel, Exchange, dated July 26, 2016 ("Exchange Letter").

[7] In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.27(c) to

Continued

This order provides notice of filing of Amendment No. 1 and approves the proposal, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Amended Proposal

Proposed Exchange Rule 11.27(c) would specify the order handling for the following order types in Pilot Securities: (i) BZX Market Orders; (ii) Market Pegged Orders; (iii) Mid-Point Peg Orders; (iv) Discretionary Orders; (v) Market Maker Peg Orders; (vi) Supplemental Peg Orders; and (vii) orders subject to Display-Price Sliding. As proposed, such order handling would apply to all orders entered into the System for Pilot Securities (*i.e.,* Test Group One, Test Group Two, Test Group Three, and the Control Group).[8] In addition, amended Exchange Rule 11.27(a)(4) would specify that in Test Group One Pilot Securities trades may continue at any price increment that is permitted under Exchange Rule 11.11, Price Variations.

The Exchange proposes in Exchange Rule 11.27(c) specific procedures for handling, executing, repricing, and displaying certain order types and order type instructions. The provisions in proposed Rule 11.27(c) would apply to all Pilot Securities. Further, the Exchange proposes that only the provisions in Exchange Rules 11.27(a) and (b) would be limited to the Pilot Period.

1. BZX Market Orders

Proposed Exchange Rule 11.27(c)(1) provides that for purposes of determining whether the execution price of a BZX Market Order is more than 5 percent worse than the national best bid or offer ("NBBO")[9] under current Exchange Rule 11.9(a)(2), the execution price for a buy (sell) will be rounded down (up) to the nearest permissible increment.[10]

2. Market Pegged Orders

Under Exchange Rule 11.9(c)(8)(B), a Market Pegged Order is pegged to the contra-side NBBO. BZX Users can specify that a Market Pegged Order will offset the inside quote on the contra side of the market by an amount ("Offset Amount"). Under proposed Exchange Rule 11.27(c)(2), the Exchange proposes not to accept Market Pegged Orders, regardless of price, in any Pilot Security.[11]

3. Mid-Point Peg Orders

Under Exchange Rule 11.9(c)(9), the System automatically adjusts the price of a Mid-Point Peg Order in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive midpoint of the NBBO, or one minimum price variation inside the same side of the NBBO as the Mid-Point Peg Order.

Under proposed Exchange Rule 11.27(c)(3), the Exchange proposes that Mid-Point Peg Orders for Pilot Securities would not be permitted to alternatively peg to one minimum price variation inside the same side of the NBBO as the order.[12]

4. Discretionary Orders

Under Exchange Rule 11.9(c)(10), a Discretionary Order is a limit order with a displayed or non-displayed ranked price and size and an additional non-displayed "discretionary price." The Exchange proposes to not accept Discretionary Orders, regardless of price, in any Pilot Security.[13]

5. Market Maker Peg Orders

Under Exchange Rule 11.9(c)(16), a Market Maker Peg Order is a limit order that is automatically priced by the System at the Designated Percentage (as defined in Exchange Rule 11.8(d)) away from the then current national best bid ("NBB") or national best offer ("NBO"), or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor in order to comply with the quotation requirements for Market Makers set forth in Exchange Rule 11.8(d). The Exchange proposes that Market Marker Peg Orders to buy (sell) be rounded up (down) to the nearest permissible increment when the pricing results in an impermissible increment.

6. Supplemental Peg Orders

Under Exchange Rule 11.9(c)(19), a Supplemental Peg Order is a non-displayed limit order that posts to the Exchange Book and thereafter is eligible for execution at the NBB for buy orders and NBO for sell orders against routable orders that are equal to or less than the aggregate size of the Supplemental Peg Order interest available at that price. The Exchange proposes not to accept Supplemental Peg Orders, regardless of price, for any Pilot Security.[14]

7. Display-Price Sliding

Under Exchange Rule 11.9(g)(1), an order eligible for display by the Exchange, that at the time of entry would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market, would be ranked at the locking price in the Exchange Book and displayed by the System at one minimum price variation below the current NBO (for bids) or one minimum price variation above the current NBB (for offers). The ranked and displayed prices of an order subject to Display-Price Sliding may be adjusted once or multiple times depending on the instructions of a User and changes to the prevailing NBBO.

The Exchange proposes that orders subject to the Display-Price Sliding that are unexecutable at the locking price will be ranked at the midpoint of the NBBO, and displayed one minimum price variation below (above) the current NBO (NBB) for bids (for offers) for all Pilot Securities. In the Control Group, Test Group One, and Test Group Two, these orders would be initially ranked at the locking price and displayed one minimum price variation away. If a subsequent incoming Post-Only Order arrives on the Exchange book on the opposite side, then the orders subject to Display-Price Sliding would be adjusted to rank at the midpoint of the NBBO and continue to be displayed at one minimum price variation away. In Test Group Three, orders subject to Display-Price Sliding would be ranked at the midpoint of the NBBO and displayed at one minimum price variation away. In addition, the Exchange proposes to cancel orders subject to Display-Price Sliding when the NBBO widens and a contra-side Non-Displayed Order is resting on the Exchange Book at a price that such order would adjust, and the User has selected a single price adjustment. Like today, if the User has selected multiple price adjustments an order subject to Display-Price Sliding would not cancel in this scenario.

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all Pilot Securities; (2) clarify in Rule 11.27(c)(1) that the increment for BZX Market Orders and Rule 11.27(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.27(c)(2) that Market Pegged Orders, Rule 11.27(c)(4) that Discretionary Orders, and Rule 11.27(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.27(c)(3) that Mid-Point Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend Non-Displayed Orders; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

[8] The Exchange proposes to clarify in the introduction to Exchange Rule 11.27 that only the provisions in 11.27(a) and 11.27(b) would be in effect during the Pilot Period.

[9] *See* Exchange Rule 1.5(o).

[10] *See* Amendment No. 1.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

III. Discussion and Commission's Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, the Commission finds that the proposal, as modified by Amendment No. 1,[15] is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities exchange.[16] Specifically, the Commission finds that the rule change is consistent with section 6(b)(5) of the Exchange Act, which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted in the Approval Order, the Plan is by design, an objective, data-driven test to evaluate how a wider tick size would impact trading, liquidity, and market quality of securities of smaller capitalization companies. In addition, the Plan is designed with three Test Groups and a Control Group, to allow analysis and comparison of incremental market structure changes on the Pilot Securities and is designed to produce empirical data that could inform future policy decisions.

The Exchange proposes certain changes to modify the operation of the System for compliance with the Plan. For example, the Exchange proposes to clarify how BZX Market Orders and Market Maker Peg Orders would be rounded to permissible increments under the Plan. The Commission finds that these changes are consistent with the section 6(b)(5) of the Exchange Act[17] and Rule 608 of Regulation NMS[18] because they implement the Plan and clarify Exchange rules.

In addition, the Exchange proposes to eliminate certain order types and modify certain order handling functions for Pilot Securities Specifically, the Exchange proposes to no longer accept three order types: Market Peg Orders, Discretionary Orders, and Supplemental Peg Orders. The Exchange noted that these orders are infrequently used in Pilot Securities. The Exchange stated that eliminating these order types for Pilot Securities could reduce System complexity and maintain consistent functionality among all Pilot Securities. Finally, the Exchange noted that these order types would have limited ability to execute under Test Group Three.

The Exchange also proposes to change the handling of orders subject to Display-Price Sliding in Pilot Securities. Orders that are subject to Display Price-Sliding in Pilot Securities that are unexecutable at the locking price will be ranked at the midpoint of the NBBO and displayed one minimum variation away.

Finally, the Exchange proposes to modify the handling of Mid-Point Peg Orders in Pilot Securities. As proposed, Mid-Point Peg Orders would not be able to alternatively peg to one minimum price variation inside the same side of the NBBO as the order. The Exchange noted that there is a de minimis usage of the alternative pegging function in Pilot Securities that does not justify the complexity and risk to the System that would be created by re-programming the System to support the function.

In the Notice, the Commission noted that proposed rule changes, other than those necessary for compliance with Plan, that are targeted at Pilot Securities, that have a disparate impact on different Test Groups and the Control Group, and that are to apply temporarily only for the Pilot Period, could bias the results of the Pilot and undermine the value of the data generated in informing future policy decisions. The Commission notes that the Exchange has modified its proposal so that those proposed changes that are not necessary for compliance with the Plan apply equally to all three Test Groups and the Control Group, and their duration is not limited to the Pilot Period. Thus, the Commission believes that the incremental design of the Pilot is maintained such that the data generated by the Test Groups and the Control Group could allow the Commission and interested parties to compare the change in market structure of each group vis-à-vis the other groups. Further, the Commission does not believe that the changes would bias the results of the Pilot or undermine the value of the data generated in informing future policy decisions.

Accordingly, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Exchange Act.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as modified by Amendment No. 1, is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2016135029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–29 and should be submitted on or before September 29, 2016.

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[15] The Commission notes that the Exchange Letter was submitted in connection with the Exchange's original proposal. Because the Exchange has filed Amendment No. 1, which supersedes and replaces the Exchange's original proposal in its entirety, the Commission does not believe it is necessary to summarize or respond to the Exchange Letter.

[16] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 17 CFR 242.608.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.27(c) to all Pilot Securities; (2) clarify in Rule 11.27(c)(1) that the increment for BZX Market Orders and Rule 11.27(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.27(c)(2) that Market Pegged Orders, Rule 11.27(c)(4) that Discretionary Orders, and Rule 11.27(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.27(c)(3) that Mid-Point Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend Non-Displayed Orders; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

The Commission believes that Amendment No. 1 modifies the proposal so that it does not cause a disparate impact on different Test Groups and the Control Group. In addition, the Commission notes that the Pilot is scheduled to start on October 3, 2016, and accelerated approval would ensure that the rules of the Exchange would be in place for the start of the Pilot. Accordingly, the Commission finds good cause, pursuant to section 19(b)(2) of the Exchange Act,[19] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act,[20] that the proposed rule change (SR–BatsBZX–2016–29), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21648 Filed 9–7–16; 8:45 am]

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[19] 15 U.S.C. 78s(b)(2).

[20] *Id.*

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78758; File no. SR–NYSEArca–2016–67]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change To List and Trade Shares of the Natixis Seeyond International Minimum Volatility ETF Under NYSE Arca Equities Rule 8.600

September 2, 2016.

On May 5, 2016, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares ("Shares") of the Natixis Seeyond International Minimum Volatility ETF ("Fund") under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on May 25, 2016.[3] On June 13, 2016, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded its entirety the proposed rule change as originally filed.[4] On June 22, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.[5] On July 1, 2016, the Exchange filed Amendment No. 3 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendments No. 1 and No. 2.[6] The Commission has received no comments on the proposed rule change. On June 30, 2016, pursuant to Section 19(b)(2) of the Act,[7] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[8] On August 22, 2016, pursuant to Section 19(b)(2)(B) of the Act[9], the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 3.[10]

On August 31, 2016, the Exchange withdrew the proposed rule change (SR–NYSEArca–2016–67).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21641 Filed 9–7–16; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77861 (May 19, 2016), 81 FR 33291.

[4] In Amendment No. 1, the Exchange: (1) Narrows the universe of investments that may be held by the Fund; (2) offers color regarding types of corporate bonds of foreign issuers that the Fund would ordinarily hold; (3) clarifies potentially ambiguous language in the filing.

[5] In Amendment No. 2, the Exchange proposes standards for the corporate bonds of foreign issuers that may be held by the Fund and clarifies how spot foreign currency transactions would be priced for purposes of calculating the net asset value of the Fund.

[6] In Amendment No. 3, the Exchange revises the standards for the Fund's investment in non-U.S. equity securities. Amendments No. 1, No. 2, and No. 3 are available at: *http://www.sec.gov/comments/sr-nysearca-2016-67/nysearca201667.shtml.*

[7] 15 U.S.C. 78s(b)(2).

[8] *See* Securities Exchange Act Release No. 78204, 81 FR 44393 (July 7, 2016). The Commission designated a longer period within which to take action on the proposed rule change and designated August 23, 2016, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[9] 15 U.S.C. 78s(b)(2)(B).

[10] *See* Securities Exchange Act Release No. 78627, 81 FR 59002 (August 26, 2016).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78747; File No. SR–BatsBYX–2016–23]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of Bats BYX Exchange, Inc.

September 1, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 25, 2016, Bats BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposed rule change to amend the fee schedule applicable to Members and non-Members[5] of the Exchange pursuant to Exchange Rules 15.1(a) and (c). Specifically, the Exchange proposes to adopt new fee code IX, which would be appended to all orders that are routed to the Investors Exchange, Inc. ("IEX") using the using the Destination Specific ("DIRC") routing strategy.[6]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved IEX as a registered national securities exchange,[7] which is to begin a symbol-by-symbol roll out of symbols on August 19, 2016.[8] As of that date, the Exchange will begin routing orders to IEX and Members may elect that their orders be routed directly to IEX using the DIRC routing strategy. The Exchange, therefore, proposes to amend its fee schedule to adopt new fee code IX, which would be appended to all orders that are routed to IEX using the DIRC routing strategy. All orders yielding fee code IX will be charged a fee of $0.0010 per share.

The proposed change would enable the Exchange to charge a rate reasonably related to the rate that Bats Trading, Inc. ("Bats Trading"), the Exchange's affiliated routing broker-dealer, would be charged for routing orders to IEX, when it does not qualify for a volume tier reduced fee.[9] As a result, when Bats Trading routes an order to IEX which removes liquidity against a non-displayed order, it will be charged a standard rate of $0.0009 per share for securities priced at or above $1.00 and 0.30% of the transaction's dollar value in securities priced below $1.00.[10] Bats Trading will not be charged a fee for orders it routes to IEX which remove liquidity against a displayed order.[11] Bats Trading will pass through these rates to the Exchange and the Exchange, in turn, will charge a rate of $0.0010 per share, regardless of whether the security is priced above or below $1.00. The Exchange notes it would not be able to control whether the order it routes to IEX executes against displayed or non-displayed liquidity, and therefore, propose to charge a fee for orders that yield fee code IX based on IEX's rates for removing non-displayed liquidity. The proposed fee under fee code IX would enable the Exchange to equitably allocate its costs among all Members utilizing fee code IX.

The Exchange proposes to implement this amendment to its fee schedule on immediately.[12]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act,[13] in general, and furthers the objectives of section 6(b)(4),[14] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that by allowing customers to route specifically to IEX through Bats Trading, as it does with the other exchanges, fee code IX represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. As of August 19, 2016, IEX will charge a fee of $0.0009 per share for orders which remove liquidity against non-displayed orders and no fee for orders that remove liquidity against displayed order.[15] Because the Exchange would not be able to control whether the order it routes to IEX executes against displayed or non-displayed liquidity, it therefore, believes it is equitable and reasonable to charge a fee for orders that yield fee code IX based on IEX's rates for removing non-displayed interest. The Exchange further believes that its proposal to pass through a fee of $0.0010 per share is equitable and reasonable because it accounts for the prices charged by IEX plus the additional operation expenses that would be incurred by the Exchange in routing orders to IEX.[16] Furthermore, the Exchange notes that routing through Bats Trading is voluntary and Members may utilize other avenues to route orders to IEX, such as connecting to IEX directly. Lastly, the Exchange also believes that the proposed fee code is non-discriminatory because it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange or from pricing offered by the Exchange's competitors. The proposed rate would apply uniformly to all Members, and Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to pass through a fee of $0.0010 for Members' orders that yield fee code IX would increase intermarket competition by offering customers an alternative means to route to specifically to IEX. As stated above, routing through Bats Trading is voluntary and Members may utilize other avenues to route orders to IEX, such as connecting to IEX directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

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[5] A Member is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

[6] *See* Exchange Rule 11.13(b)(3)(E).

[7] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) ("IEX Approval Order").

[8] *See* Letter from Brad Katsuyama, CEO, IEX, to IEX's Sell-Side and Buy-Side Partners, dated June 17, 2016 (*https://www.iextrading.com/*) (stating that IEX will commence a symbol-by-symbol roll-out on August 19, 2016, concluding on September 2, 2016).

[9] The Exchange notes that IEX does not currently offer volume tiered pricing.

[10] *See* IEX fee schedule *available at https://iextrading.com/trading/#fee-schedule* (effective August 19, 2016). *See also* IEX Trading Alert #2016–036, Investors Exchange Fee Schedule Effective August 19, 2016, *available at https://iextrading.com/trading/alerts/2016/036/.*

[11] *Id.*

[12] The Exchange filed SR–BatsBYX–2016–22 on August 19, 2016. On August 26, 2016, the Exchange withdrew that filing and submitted this filing.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

[15] *See supra* note 10.

[16] The Exchange notes that, pursuant to fee code J, it charges all order routed to the Nasdaq Stock Market LLC ("Nasdaq") a uniform rate of $0.0029 per share even though Nasdaq's removal rates differs for securities priced above and below $1. *See* Nasdaq's fee schedule *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.* The Exchange also notes that the proposed rate for fee code IX is lower that its standard routing fee of $0.0029 per share under fee code X, which it charges, for example, to orders routed to the National Stock Exchange, Inc. ("NSX") which charges a lower rate to remove liquidity. *See* NSX's fee schedule *available at http://nsx.com/client/pricing* (charging a fee of $0.0003 per share to orders that remove liquidity).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[17] and paragraph (f) of Rule 19b–4 thereunder.[18] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBYX–2016–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBYX–2016–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBYX–2016–23, and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21489 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78753; File No. SR–NYSE–2016–61]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Exchange's Price List To Amend the Date That Two Wireless Connections to Third Party Data Feeds Are Expected To Be Available

September 1, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 24, 2016, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Price List to amend the date that two wireless connections to third party data feeds are expected to be available. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to amend the date that two wireless connections to third party data feeds are expected to be available.

The Exchange's co-location[4] services include the means for Users[5] to receive market data feeds from third party markets ("Third Party Data") through a wireless connection.[6] The Exchange recently amended its Price List to:

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56). The Exchange operates a data center in Mahwah, New Jersey (the "data center") from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a "User" means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, a User that incurs co-

- Expand the existing wireless connection to Bats Pitch BZX Gig shaped data ("BZX") to include Bats Pitch BYX Gig shaped data ("BYX"); and
- expand the existing wireless connection to Bats EDGX Gig shaped data ("EDGX") to include Bats EDGA Gig shaped data ("EDGA").[7]

In its filing with the Securities and Exchange Commission ("Commission") making such amendment, the Exchange stated that the proposed connectivity was expected to be available no later than September 1, 2016, and amended the Price List to note that connectivity to the BYX and EDGA data feeds was expected to be available no later than such date.[8]

The Exchange now proposes to amend the Price List to update the expected availability date to December 31, 2016. As previously stated, the Exchange will announce the date that such wireless connections will be made available through a customer notice.

No other aspect of the wireless connection to BZX and BYX or EDGX and EDGA (together, the "Additional Third Party Data") is being amended.

By way of background, as with all wireless connections to Third Party Data, the Exchange would utilize a network vendor to provide a wireless connection to the Additional Third Party Data through wireless connections from an Exchange access center to its data center in Mahwah, New Jersey, through a series of towers equipped with wireless equipment. A User that wished to receive Additional Third Party Data would enter into a contract with the relevant third party provider, which would charge the User the applicable market data fees. The Exchange would charge the User fees for the wireless connection.[9]

The Exchange proposes to offer the wireless connections to provide Users with an alternative means of connectivity to Additional Third Party Data. Currently, Users can receive such Third Party Data from wireless networks offered by third party vendors.[10] Users may also receive connections to Additional Third Party Data through other methods, including, for example, from another User, through a telecommunications provider, or over the internet protocol ("IP") network.[11]

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.*, a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [12] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[13]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and Section 6(b)(4) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because amending the Price List to update the expected availability date for connectivity to the BYX and EDGA data feeds to December 31, 2016, would add greater clarity to the Price List regarding when such connectivity will be available and allow the Exchange more time to establish and test connectivity to the BYX and EDGA data feeds.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because connectivity to the BYX and EDGA data feeds would be available to all Users on an equal basis (*i.e.*, the connectivity to such feeds will be made available to all Users at the same time). Such connectivity is completely voluntary. Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain the Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

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location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE MKT LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

[6] *See* Securities Exchange Act Release No. 76748 (December 23, 2015), 80 FR 81609 (December 30, 2015) (SR–NYSE–2015–52).

[7] *See* Securities Exchange Act Release No. 78378 (July 21, 2016), 81 FR 49315 (July 27, 2016) (SR–NYSE–2016–49). The Commission designated the proposed rule change as operative upon filing with the Commission. *Id.* at 49319.

[8] *Id.* at 49317.

[9] A User only receives the Third Party Data for which it enters into a contract with the third party provider.

[10] Currently, at least six third party vendors offer Users wireless network connections using wireless equipment installed on towers and buildings near the data center.

[11] The IP network is a local area network available in the data center. *See* Securities Exchange Act Release No. 74222 (February 6, 2015), 80 FR 7888 (February 12, 2015) (SR–NYSE–2015–05) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

[12] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[13] *See* SR–NYSE–2013–59, *supra* note 5 at 51766. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEMKT–2016–82 and SR–NYSEArca–2016–122.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(5).

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that amending the Price List to update the expected availability date for connectivity to the BYX and EDGA data feeds to December 31, 2016, will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because connectivity to the BYX and EDGA data feeds would be available to all Users on an equal basis (*i.e.,* the connectivity to such feeds will be made available to all Users at the same time). The proposed change would add greater clarity to the Price List regarding when such connectivity will be available and allow the Exchange more time to establish and test connectivity to the BYX and EDGA data feeds. In addition, Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain the Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[18] of the Act and subparagraph (f)(2) of Rule 19b–4[19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2016–61 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2016–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2016–61, and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21496 Filed 9–7–16; 8:45 am]

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[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78752; File No. SR–NYSEArca–2016–122]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule and, the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Amend the Date That Two Wireless Connections to Third Party Data Feeds Are Expected To Be Available

September 1, 2016.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 24, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (the "Options Fee Schedule") and, through its wholly owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the "Equities Fee Schedule" and, together with the Options Fee Schedule, the "Fee Schedules") to amend the date that two wireless connections to third party data feeds are expected to be available. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedules to amend the date that two wireless connections to third party data feeds are expected to be available.

The Exchange's co-location[4] services include the means for Users[5] to receive market data feeds from third party markets ("Third Party Data") through a wireless connection.[6] The Exchange recently amended the Fee Schedules to:

- Expand the existing wireless connection to Bats Pitch BZX Gig shaped data ("BZX") to include Bats Pitch BYX Gig shaped data ("BYX"); and
- expand the existing wireless connection to Bats EDGX Gig shaped data ("EDGX") to include Bats EDGA Gig shaped data ("EDGA").[7]

In its filing with the Securities and Exchange Commission ("Commission") making such amendment, the Exchange stated that the proposed connectivity was expected to be available no later than September 1, 2016, and amended the Fee Schedules to note that connectivity to the BYX and EDGA data feeds was expected to be available no later than such date.[8]

The Exchange now proposes to amend the Fee Schedules to update the expected availability date to December 31, 2016. As previously stated, the Exchange will announce the date that such wireless connections will be made available through a customer notice.

No other aspect of the wireless connection to BZX and BYX or EDGX and EDGA (together, the "Additional Third Party Data") is being amended.

By way of background, as with all wireless connections to Third Party Data, the Exchange would utilize a network vendor to provide a wireless connection to the Additional Third Party Data through wireless connections from an Exchange access center to its data center in Mahwah, New Jersey, through a series of towers equipped with wireless equipment. A User that wished to receive Additional Third Party Data would enter into a contract with the relevant third party provider, which would charge the User the applicable market data fees. The Exchange would charge the User fees for the wireless connection.[9]

The Exchange proposes to offer the wireless connections to provide Users with an alternative means of connectivity to Additional Third Party Data. Currently, Users can receive such Third Party Data from wireless networks offered by third party vendors.[10] Users may also receive connections to Additional Third Party Data through other methods, including, for example, from another User, through a telecommunications provider, or over the internet protocol ("IP") network.[11]

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[12] and (iii) a User would only

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). The Exchange operates a data center in Mahwah, New Jersey (the "data center") from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a "User" means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC ("NYSE LLC") and NYSE MKT LLC ("NYSE MKT"). *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

[6] *See* Securities Exchange Act Release No. 76749 (December 23, 2015), 80 FR 81640 (December 30, 2015) (SR–NYSEArca–2015–99).

[7] *See* Securities Exchange Act Release No. 78377 (July 21, 2016), 81 FR 49327 (July 27, 2016) (SR–NYSEArca–2016–99). The Commission designated the proposed rule change as operative upon filing with the Commission. *Id.* at 49331.

[8] *Id.* at 49329.

[9] A User only receives the Third Party Data for which it enters into a contract with the third party provider.

[10] Currently, at least six third party vendors offer Users wireless network connections using wireless equipment installed on towers and buildings near the data center.

[11] The IP network is a local area network available in the data center. *See* Securities Exchange Act Release No. 74219 (February 6, 2015), 80 FR 7899 (February 12, 2015) (SR–NYSEArca–2015–03) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

[12] As is currently the case, Users that receive co-location services from the Exchange will not receive

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incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[13]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[14] in general, and section 6(b)(4) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change furthers the objectives of section 6(b)(5) of the Act,[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because amending the Fee Schedules to update the expected availability date for connectivity to the BYX and EDGA data feeds to December 31, 2016, would add greater clarity to the Fee Schedules regarding when such connectivity will be available and allow the Exchange more time to establish and test connectivity to the BYX and EDGA data feeds.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because connectivity to the BYX and EDGA data feeds would be available to all Users on an equal basis (*i.e.,* the connectivity to such feeds will be made available to all Users at the same time). Such connectivity is completely voluntary. Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain the Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that amending the Fee Schedules to update the expected availability date for connectivity to the BYX and EDGA data feeds to December 31, 2016, will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because connectivity to the BYX and EDGA data feeds would be available to all Users on an equal basis (*i.e.,* the connectivity to such feeds will be made available to all Users at the same time). The proposed change would add greater clarity to the Fee Schedules regarding when such connectivity will be available and allow the Exchange more time to establish and test connectivity to the BYX and EDGA data feeds. In addition, Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain the Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)[18] of the Act and subparagraph (f)(2) of Rule 19b–4[19] thereunder, because it establishes a due,

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any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[13] *See* SR–NYSEArca–2013–80, *supra* note 5, at 50459. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2016–61 and SR–NYSEMKT–2016–82.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2016–122 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2016–122. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2016–122, and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21495 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

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[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78767; File No. SR–BatsEDGX–2016–26]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 11.22 To Describe Changes to System Functionality Necessary To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

September 2, 2016.

I. Introduction

On June 29, 2016, Bats EDGX Exchange, Inc. ("Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Exchange Rule 11.22(c) to describe changes to System[3] functionality to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan" or "Pilot").[4] The proposed rule change was published for comment in the **Federal Register** on July 20, 2016.[5] The Commission received one comment letter from the Exchange in response to the Notice.[6] On September 1, 2016, the Exchange filed an amendment to the proposed rule change ("Amendment No. 1"), which supersedes and replaces the proposal in its entirety.[7]

This order provides notice of filing of Amendment No. 1 and approves the proposal, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Amended Proposal

Proposed Exchange Rule 11.22(c) would specify the order handling for the following order types in Pilot Securities: (i) Market Orders; (ii) orders with a Market Peg instruction; (iii) MidPoint Peg Orders; (iv) orders with a Discretionary Range instruction; (v) Market Maker Peg Orders; (vi) Supplemental Peg Orders; and (vii) orders subject to the Display-Price Sliding process. As proposed, such order handling would apply to all orders entered into the System for Pilot Securities (*i.e.,* Test Group One, Test Group Two, Test Group Three, and the Control Group). Additionally, the Exchange proposes to amend the last sentence of Rule 11.22(a)(4) to specify that the current permissible price increments are set forth under Exchange Rule 11.6(i), Minimum Price Variation.

The Exchange proposes in Exchange Rule 11.22(c) specific procedures for handling, executing, repricing and displaying certain order types and order type instructions. The provisions in proposed Rule 11.22(c) would apply to all Pilot Securities. Further, the Exchange proposes that only the provisions in Exchange Rules 11.22(a) and (b) would be limited to the Pilot Period.[8]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "System" is defined as the "electronic communications and trading facility designated by the Board of Directors of the Exchange through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away." *See* Exchange Rule 1.5(cc).

[4] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order"). Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Plan.

[5] Securities Exchange Act Release No. 78331 (July 14, 2016), 81 FR 47205 ("Notice").

[6] *See* Letter to Brent J. Fields, Secretary, Commission, from Eric Swanson, General Counsel, Exchange, dated July 26, 2016 ("Exchange Letter").

[7] In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.22(c) to all Pilot Securities; (2) clarify in Rule 11.22(c)(1) that the increment for Market Orders and Rule 11.22(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.22(c)(2) that orders with a Market Peg instruction, Rule 11.22(c)(4) that orders with a Discretionary Range, and Rule 11.22(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.22(c)(3) that MidPoint Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend orders with a Non-Displayed instruction; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

[8] The Exchange proposes to clarify in the introduction to Exchange Rule 11.22 that only the

Continued

1. Market Orders

Proposed Exchange Rule 11.22(c)(1) provides that for purposes of determining whether the execution price of a Market Order is more than 5 percent worse than the national best bid or offer ("NBBO") [9] under current Exchange Rule 11.8(a)(7), the execution price for a buy (sell) will be rounded down (up) to the nearest permissible increment.[10]

2. Market Peg Instruction

Under Exchange Rule 11.6(j)(1), an order with a Market Peg instruction is pegged to the contra-side NBBO. EDGX Users can specify that such an order will offset the inside quote on the contra side of the market by an amount ("Offset Amount"). Under proposed Exchange Rule 11.22(c)(2), the Exchange proposes not to accept orders with a Market Peg instruction, regardless of price, in any Pilot Security.[11]

3. MidPoint Peg Orders

Under Exchange Rule 11.8(d), the System automatically adjusts the price of a MidPoint Peg Order in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive midpoint of the NBBO, or one minimum price variation inside the same side of the NBBO as the MidPoint Peg Order.

Under proposed Exchange Rule 11.22(c)(3), the Exchange proposes that MidPoint Peg Orders for Pilot Securities would not be permitted to alternatively peg to one minimum price variation inside the same side of the NBBO as the order.[12]

4. Discretionary Range Instruction

Under Exchange Rule 11.6(d), an order with a Discretionary Range instruction is a limit order with a displayed or non-displayed ranked price and size and an additional non-displayed "discretionary price." The Exchange proposes to not accept orders with a Discretionary Range instruction, regardless of price, in any Pilot Security.[13]

5. Market Maker Peg Orders

Under Exchange Rule 11.8(e), a Market Maker Peg Order is a limit order that is automatically priced by the System at the Designated Percentage (as defined in Exchange Rule 11.20(d)(2)D)) away from the then current national best bid ("NBB") or national best offer ("NBO"), or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor in order to comply with the quotation requirements for Market Makers set forth in Exchange Rule 11.20(d). The Exchange proposes that Market Marker Peg Orders to buy (sell) be rounded up (down) to the nearest permissible increment when the pricing results in an impermissible increment.

6. Supplemental Peg Orders

Under Exchange Rule 11.8(f), a Supplemental Peg Order is a non-displayed limit order that posts to the Exchange Book and thereafter is eligible for execution at the NBB for buy orders and NBO for sell orders against routable orders that are equal to or less than the aggregate size of the Supplemental Peg Order interest available at that price. The Exchange proposes not to accept Supplemental Peg Orders, regardless of price, for any Pilot Security.[14]

7. Display-Price Sliding

Under Exchange Rule 11.6(l)(1)(B), an order eligible for display by the Exchange, that at the time of entry would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market, would be ranked at the locking price in the Exchange Book and displayed by the System at one minimum price variation below the current NBO (for bids) or one minimum price variation above the current NBB (for offers). The ranked and displayed prices of an order subject to Display-Price Sliding may be adjusted once or multiple times depending on the instructions of a User and changes to the prevailing NBBO.

The Exchange proposes that orders subject to the Display-Price Sliding that are unexecutable at the locking price will be ranked at the midpoint of the NBBO, and displayed one minimum price variation below (above) the current NBO (NBB) for bids (for offers) for all Pilot Securities. In the Control Group, Test Group One, and Test Group Two, these orders would be initially ranked at the locking price and displayed one minimum price variation away. If a subsequent incoming Post-Only Order arrives on the Exchange book on the opposite side, then the orders subject to Display-Price Sliding would be adjusted to rank at the midpoint of the NBBO and continue to be displayed at one minimum price variation away. In Test Group Three, orders subject to Display-Price Sliding would be ranked at the midpoint of the NBBO and displayed at one minimum price variation away. In addition, the Exchange proposes to cancel orders subject to Display-Price Sliding when the NBBO widens and a contra-side Non-Displayed Order is resting on the Exchange Book at a price that such order would adjust, and the User has selected a single price adjustment. Like today, if the User has selected multiple price adjustments an order subject to Display-Price Sliding would not cancel in this scenario.

III. Discussion and Commission's Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, the Commission finds that the proposal, as modified by Amendment No. 1,[15] is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities exchange.[16] Specifically, the Commission finds that the rule change is consistent with Section 6(b)(5) of the Exchange Act, which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted in the Approval Order, the Plan is by design, an objective, data-driven test to evaluate how a wider tick size would impact trading, liquidity, and market quality of securities of smaller capitalization companies. In addition, the Plan is designed with three Test Groups and a Control Group, to allow analysis and comparison of incremental market structure changes on the Pilot Securities and is designed to produce empirical data that could inform future policy decisions.

The Exchange proposes certain changes to modify the operation of the

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provisions in 11.22(a) and 11.22(b) would be in effect during the Pilot Period.

[9] *See* Exchange Rule 1.5(o).

[10] *See* Amendment No. 1.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] The Commission notes that the Exchange Letter was submitted in connection with the Exchange's original proposal. Because the Exchange has filed Amendment No. 1, which supersedes and replaces the Exchange's original proposal in its entirety, the Commission does not believe it is necessary to summarize or respond to the Exchange Letter.

[16] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

System for compliance with the Plan. For example, the Exchange proposes to clarify how Market Orders and Market Maker Peg Orders would be rounded to permissible increments under the Plan. The Commission finds that these changes are consistent with the Section 6(b)(5) of the Exchange Act[17] and Rule 608 of Regulation NMS[18] because they implement the Plan and clarify Exchange rules.

In addition, the Exchange proposes to eliminate certain order types and modify certain order handling functions for Pilot Securities. Specifically, the Exchange proposes to no longer accept three order types: Orders with a Market Peg instruction, orders with a Discretionary Range instruction, and Supplemental Peg Orders. The Exchange noted that these orders are infrequently used in Pilot Securities. The Exchange stated that eliminating these order types for Pilot Securities could reduce System complexity and maintain consistent functionality among all Pilot Securities. Finally, the Exchange noted that these order types would have limited ability to execute under Test Group Three.

The Exchange also proposes to change the handling of orders subject to Display-Price Sliding in Pilot Securities. Orders that are subject to Display Price-Sliding in Pilot Securities that are unexecutable at the locking price will be ranked at the midpoint of the NBBO and displayed one minimum variation away.

Finally, the Exchange proposes to modify the handling of MidPoint Peg Orders in Pilot Securities. As proposed, MidPoint Peg Orders would not be able to alternatively peg to one minimum price variation inside the same side of the NBBO as the order. The Exchange noted that there is a de minimis usage of the alternative pegging function in Pilot Securities that does not justify the complexity and risk to the System that would be created by re-programming the System to support the function.

In the Notice, the Commission noted that proposed rule changes, other than those necessary for compliance with Plan, that are targeted at Pilot Securities, that have a disparate impact on different Test Groups and the Control Group, and that are to apply temporarily only for the Pilot Period, could bias the results of the Pilot and undermine the value of the data generated in informing future policy decisions. The Commission notes that the Exchange has modified its proposal so that those proposed changes that are not necessary for compliance with the Plan apply equally to all three Test Groups and the Control Group, and their duration is not limited to the Pilot Period. Thus, the Commission believes that the incremental design of the Pilot is maintained such that the data generated by the Test Groups and the Control Group could allow the Commission and interested parties to compare the change in market structure of each group vis-à-vis the other groups. Further, the Commission does not believe that the changes would bias the results of the Pilot or undermine the value of the data generated in informing future policy decisions.

Accordingly, the Commission finds that the proposed rule change, as modified by Amendment No.1, is consistent with the requirements of the Exchange Act.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as modified by Amendment No. 1, is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGX–2016–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2016–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2016–26 and should be submitted on or before September 29, 2016.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.22(c) to all Pilot Securities; (2) clarify in Rule 11.22(c)(1) that the increment for Market Orders and Rule 11.22(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.22(c)(2) that orders with a Market Peg instruction, Rule 11.22(c)(4) that orders with a Discretionary Range, and Rule 11.22(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.22(c)(3) that MidPoint Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend orders with a Non-Displayed instruction; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

The Commission believes that Amendment No. 1 modifies the proposal so that it does not cause a disparate impact on different Test Groups and the Control Group. In addition, the Commission notes that the Pilot is scheduled to start on October 3, 2016, and accelerated approval would ensure that the rules of the Exchange would be in place for the start of the Pilot. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[19] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

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[17] 15 U.S.C. 78f(b)(5).

[18] 17 CFR 242.608.

[19] 15 U.S.C. 78s(b)(2).

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[20] that the proposed rule change (SR–BatsEDGX–2016–26), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21650 Filed 9–7–16; 8:45 am]

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[20] *Id.*

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78760; File No. SR–CBOE–2016–049]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Options That Overlie the FTSE Developed Europe Index and the FTSE Emerging Index and To Amend the Maintenance Listing Criteria Applicable to Certain Index Options

September 2, 2016.

I. Introduction

On June 15, 2016, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade options that overlie the FTSE Developed Europe Index and the FTSE Emerging Index, to raise the comprehensive surveillance agreement (''CSA'') percentages applicable to options that overlie the MSCI EAFE Index and the MSCI Emerging Markets Index, and to amend the maintenance listing criteria applicable to MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options. The proposed rule change was published for comment in the **Federal Register** on July 1, 2016.[3] On August 9, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] On August 25, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[5] The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change

A. Listing and Trading of FTSE Developed Europe Index and FTSE Emerging Index Options

The Exchange proposes to list and trade P.M. cash-settled, European-style options on the FTSE Developed Europe Index and the FTSE Emerging Index.[6] The following discussion is a summary of the Exchange's description of its proposed listing criteria for the FTSE Developed Europe and FTSE Emerging Index options.[7]

According to the Exchange, the FTSE Developed Europe Index is a weighted index representing the performance of large- and mid-cap companies in Developed European markets. The FTSE Developed Europe Index is comprised of over 500 securities from 15 countries. According to the Exchange, the FTSE Emerging Index is a weighted index representing the performance of large- and mid-cap companies in advanced and secondary emerging markets. The FTSE Emerging Index is comprised of approximately 950 securities from 22 countries.[8] The Exchange states that the indexes are monitored and maintained by FTSE International Limited (''FTSE'').[9] Adjustments to the indexes can be made on a daily basis, and FTSE reviews the indexes semi-annually.

According to the Exchange, the FTSE Developed Europe Index is calculated and published in U.S. dollars on a real-time basis during U.S. trading hours from 2:00 a.m. to 10:30 a.m. (Chicago time). At 10:30 a.m. (Chicago time) the real-time index closes using the closing prices from the London Stock Exchange and between 10:30 a.m. and 3:15 p.m. (Chicago time) the FTSE Developed Europe Index level is a static value that market participants can access via data vendors. The FTSE Emerging Index is calculated and published in U.S. dollars on a real-time basis during U.S. trading hours from 6:30 p.m. (Chicago time, prior day) to 3:10 p.m. (Chicago time, next day). At 3:10 p.m. (Chicago time) the real-time index closes using the closing prices from Brazil, Chile, Peru, and Mexico and between 3:10 p.m. and 3:15 p.m. (Chicago time) the FTSE Emerging Index level is a static value that market participants can access via data vendors.

The methodologies used to calculate the FTSE Developed Europe Index and the FTSE Emerging Index are similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes.[10] Real-time data is distributed at least every 15 seconds while the indexes are being calculated using FTSE's real-time calculation engine to Bloomberg L.P. ("Bloomberg"), Thomson Reuters ("Reuters"), and other major vendors. End of day data is distributed daily to clients through FTSE as well as through major quotation vendors, including Bloomberg and Reuters.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78177 (Jun. 28, 2016), 81 FR 43308 (''Notice'').

[4] *See* Securities Exchange Act Release No. 78511, 81 FR 54173 (Aug. 15, 2016).

[5] Pursuant to Amendment No. 1, the Exchange proposes to (i) retain the current CSA percentages applicable to the initial and continued listing of MSCI EAFE and MSCI Emerging Markets Index options at 25% and 27.5%, respectively (the original proposal would have raised such CSA percentages to 50%) and (ii) decrease the proposed CSA percentages applicable to the initial and continued listing of FTSE Developed Europe and FTSE Emerging Index options to 32.5% and 35%, respectively (the original proposal would have set such CSA percentages at 50%). Thus, as amended by Amendment No. 1, proposed Rule 24.2, Interpretation and Policy .01(a)(7) provides that ''non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than: (i) Twenty-five percent (25%) of the weight of the [MSCI] EAFE Index, (ii) twenty-seven and a half percent (27.5%) of the weight of the [MSCI Emerging Markets] Index, (iii) thirty-two and a half percent (32.5%) of the weight of the FTSE Developed [Europe] Index, and (iv) thirty-five percent (35%) of the weight of the FTSE Emerging Index.'' In addition, Amendment No. 1 amends the proposed maintenance listing criteria applicable to FTSE Developed Europe, FTSE Emerging, MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options to require that the CSA percentages applicable to such products be satisfied as of the first day of the month following the Reporting Authority's review of the weighting of the constituents in the applicable index, but in no case less than on a quarterly basis (the original proposal would have provided that the CSA requirements for such products must only be satisfied as of the first day of the January and July in each year). Amendment No. 1 is available at: *http://www.cboe.com/publish/RuleFilingsSEC/SR-CBOE-2016-049.a1.pdf.*

[6] The Exchange proposes to list up to twelve near-term expiration months for the FTSE Developed Europe and FTSE Emerging Index options. The Exchange also proposes to list LEAPS on the FTSE Developed Europe Index and the FTSE Emerging Index. The Exchange proposes that options on the FTSE Developed Europe Index and the FTSE Emerging Index would be eligible for all other expirations permitted for other broad-based indexes (*e.g.,* End of Week/End of Month/Wednesday Expirations, Short Term Option Series, and Quarterly Options Series). In addition, the Exchange proposes to designate the FTSE Developed Europe Index and the FTSE Emerging Index as eligible for trading as FLEX options.

[7] For a more complete description of the FTSE Developed Europe Index and the FTSE Emerging Index, and CBOE's proposed listing criteria for options on these indexes, see Notice, *supra* note 3.

[8] The Exchange states that the FTSE Developed Europe Index and the FTSE Emerging Index each meet the definition of a broad-based index as set forth in Exchange Rule 24.1(i)(1).

[9] The Exchange proposes to designate FTSE as the reporting authority for the FTSE Developed Europe Index and the FTSE Emerging Index.

The Exchange proposes that trading hours for FTSE Developed Europe Index options would be from 8:30 a.m. (Chicago Time) to 3:15 p.m. (Chicago Time), except that trading in expiring FTSE Developed Europe Index options would end upon the close of the London Stock Exchange (usually 10:30 a.m. Chicago time)[11] on their expiration date. The Exchange proposes that trading hours for FTSE Emerging Index options would be from 8:30 a.m. (Chicago Time) to 3:15 p.m. (Chicago Time).

The Exchange proposes that FTSE Developed Europe and FTSE Emerging Index options would expire on the third Friday of the expiration month.[12] The exercise settlement value would be the official closing values of the FTSE Developed Europe Index and the FTSE Emerging Index as reported by FTSE on the last trading day of the expiring contract. The exercise settlement amount would be equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by the contract multiplier ($100).[13] Exercise would result in delivery of cash on the business day following expiration.

The Exchange proposes to apply the initial and maintenance listing criteria in Interpretation and Policy .01(a) to Rule 24.2, currently only applicable to MSCI EAFE and MSCI Emerging Markets Index options, to options on the FTSE Developed Europe Index and the FTSE Emerging Index. Specifically, the Exchange proposes to amend Interpretation and Policy .01(a) to Rule 24.2 to provide that the Exchange may trade FTSE Developed Europe and FTSE Emerging Index options if each of the following conditions is satisfied: (1) The index is broad-based, as defined in Exchange Rule 24.1(i)(1); (2) options on the index are designated as P.M.-settled index options; (3) the index is capitalization-weighted, price-weighted, modified capitalization-weighted, or equal dollar-weighted; (4) the index consists of 500 or more component securities; (5) all of the component securities of the index will have a market capitalization of greater than $100 million; (6) no single component security accounts for more than fifteen percent (15%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than fifty percent (50%) of the weight of the index; (7) non-U.S. component securities (stocks or American Depositary Receipts) that are not subject to CSAs do not, in the aggregate, represent more than: (a) Thirty-two and a half percent (32.5%) of the weight of the FTSE Developed Europe Index, and (b) thirty-five percent (35%) of the weight of the FTSE Emerging Index;[14] (8) during the time options on the index are traded on the Exchange, the current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors; however, the Exchange may continue to trade FTSE Developed Europe and FTSE Emerging Index options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors, provided that FTSE Developed Europe or FTSE Emerging Index futures contracts are trading and prices for those contracts may be used as a proxy for the current index value; (9) the Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index; and (10) the Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

Additionally, the Exchange proposes to amend Interpretation and Policy .01(b) to Rule 24.2 to set forth the following maintenance listing standards for options on the FTSE Developed Europe Index and the FTSE Emerging Index: (1) the conditions set forth in subparagraphs .01(a)(1), (2), (3), (4), (8), (9), and (10) must continue to be satisfied; the conditions set forth in subparagraphs .01(a)(5) and (6) must be satisfied only as of the first day of January and July in each year; and the conditions set forth in subparagraph .01(a)(7) must be satisfied as of the first day of the month following the Reporting Authority's review of the weighting of the constituents in the applicable index, but in no case less than a quarterly basis;[15] and (2) the total number of component securities in the index may not increase or decrease by more than thirty-five percent (35%) from the number of component securities in the index at the time of its initial listing. In the event a class of index options listed on the Exchange pursuant to Interpretation and Policy .01(a) fails to satisfy these maintenance listing standards, the Exchange shall not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.

The contract multiplier for the FTSE Developed Europe and FTSE Emerging Index options would be $100. The Exchange proposes that the minimum tick size for series trading below $3 would be 0.05 ($5.00), and at or above $3 would be 0.10 ($10.00). The Exchange also proposes that the strike price interval for FTSE Developed Europe and FTSE Emerging Index options would be no less than $5, except that the strike price interval would be no less than $2.50 if the strike price is less than $200.

The Exchange proposes to apply the default position limits for broad-based index options of 25,000 contracts on the same side of the market (and 15,000 contracts near-term limit) to FTSE Developed Europe and FTSE Emerging Index options. All position limit hedge exemptions would apply. The exercise limits for FTSE Developed Europe and FTSE Emerging Index options would be equivalent to the near-term position limits for those options. In addition, the Exchange proposes that the position limits for FLEX options on the FTSE Developed Europe Index and the FTSE Emerging Index would be equal to the position limits for non-FLEX options on the FTSE Developed Europe Index and the FTSE Emerging Index. The exercise limits for FLEX options on the FTSE Developed Europe Index and the FTSE Emerging Index would be equivalent to the position limits for those options.

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[10] Specifically, the indexes are governed by the Ground Rules for the FTSE Global Equity Index Series. Further detail regarding this methodology can be found in the Notice, *supra* note 3, at notes 7 and 11 and accompanying text.

[11] For example, Daylight Saving Time began in Chicago on March 13, 2016, and in London on March 27, 2016. If an expiration were to occur after Daylight Savings was observed in Chicago but prior to observance in London, trading in expiring FTSE Developed Europe Index options would end at 11:30 a.m. (Chicago time). FTSE Emerging Index options are not affected by Daylight Savings as trading in expiring FTSE Emerging Index options ends at 3:15 p.m. (Chicago Time) on their expiration date.

[12] According to the Exchange, when the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

[13] According to the Exchange, if the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of the Options Clearing Corporation.

[14] *See* Amendment No. 1, *supra* note 5. Other than proposed listing criteria 7 of Rule 24.2.01(a) and maintenance listing criteria 1 of Rule 24.2.01(b), the Exchange is proposing to adopt the same listing criteria for FTSE Developed Europe and FTSE Emerging Index options that are currently applicable to MSCI EAFE and MSCI Emerging Markets Index options.

[15] *See* Amendment No. 1, *supra* note 5.

The Exchange states that, except as modified by the proposal, Exchange Rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB would equally apply to FTSE Developed Europe and FTSE Emerging Index options. The Exchange also states that FTSE Developed Europe and FTSE Emerging Index options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules, margin requirements,[16] and trading rules.[17]

The Exchange represents that it has an adequate surveillance program in place for FTSE Developed Europe and FTSE Emerging Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in the proposed options. The Exchange also states that it is a member of the Intermarket Surveillance Group; is an affiliate member of the International Organization of Securities Commissions; and has entered into various CSAs, Memoranda of Understanding, and/or information sharing agreements with various stock exchanges. Finally, the Exchange represents that it believes it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of FTSE Developed Europe and FTSE Emerging Index options.

B. Amendment to Maintenance Listing Criteria Applicable to Certain Index Options

The Exchange also proposes to amend Exchange Rule 24.2, Interpretation and Policy .01(b)(1), .02(b)(1), and .03(b)(1) to modify the maintenance listing criteria applicable to MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options, and that will be applicable to the proposed FTSE Developed Europe and FTSE Emerging Index options. The Exchange proposes to amend Exchange Rules 24.2.01(b)(1), 24.2.02(b)(1), and 24.2.03(b)(1)[18] to specify that the listing criteria set forth in subparagraphs .01(a)(7), .02(a)(7), and .03(a)(7) to Rule 24.2 need only be met as of the first day of the month following the Reporting Authority's review of the weighting of the constituents in the applicable index, but in no case less than a quarterly basis.[19] The listing criteria set forth in subparagraphs .01(a)(7), .02(a)(7), and .03(a)(7) to Rule 24.2 generally provides that non-U.S. component securities (stocks or American Depositary Receipts) that are not subject to CSAs do not, in the aggregate, represent more than a certain percent of the weight of the applicable index. Currently, Rules 24.2.01(b)(1), 24.2.02(b)(1), and 24.2.03(b)(1) provide that this listing criteria must continue to be satisfied.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[20] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[21] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that the listing and trading of FTSE Developed Europe Index options should broaden trading and hedging opportunities for investors by providing an options instrument based on an index representing the performance of large- and mid-cap companies in Developed European markets. Similarly, the Commission believes that the listing and trading of FTSE Emerging Index options should broaden trading and hedging opportunities for investors by providing an options instrument based on an index representing the performance of large- and mid-cap companies in advanced and secondary emerging markets. Moreover, the Exchange states that FTSE Developed Europe and FTSE Emerging Index futures contracts are listed for trading on the Chicago Mercantile Exchange ("CME") and that FTSE Developed Europe and FTSE Emerging Index options are designed to provide additional opportunities for investors to hedge or speculate on the market risk associated with the FTSE Developed and FTSE Emerging Indexes by listing an option directly on these indexes.

Because the FTSE Developed Europe Index and the FTSE Emerging Index are broad-based indexes composed of actively-traded, well-capitalized stocks, the trading of options on these indexes does not raise unique regulatory concerns. The Commission believes that the listing standards, which are substantially similar to the listing standards for MSCI EAFE and MSCI Emerging Markets Index options, are consistent with the Act,[22] for the reasons discussed below.

The Commission notes that the proposed listing standards would require that the FTSE Developed Europe Index and the FTSE Emerging Index each consist of 500 or more component securities. Further, for options on the FTSE Developed Europe Index and the FTSE Emerging Index to trade, each of the minimum of 500 component securities would need to have a market capitalization of greater than $100 million. The Commission notes that, according to the Exchange, the FTSE Developed Europe Index has more than 500 components and the FTSE Emerging Index has more than 900 components, all of which must meet the market capitalization requirement to permit options on these indexes to begin trading.

The Commission notes that the proposed listing standards for options on the FTSE Developed Europe Index and the FTSE Emerging Index would not permit any single component security to account for more than 15% of the weight of the index, and would not permit the five highest weighted component securities to account for more than 50% of the weight of the index in the aggregate. The Commission believes that, in view of the requirement on the number of securities in each index, the number of countries represented in each index, and the market capitalization, this concentration standard is consistent with the Act. Further, the Exchange states that no single component accounts for more than 5% of either index. As noted above, the Exchange represents that it has an adequate surveillance program in place for FTSE Developed Europe and FTSE Emerging Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in the proposed options.

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[16] The Exchange states that FTSE Developed Europe and FTSE Emerging Index options would be margined as broad-based index options.

[17] *See, e.g.,* Exchange Rule Chapters IX (Doing Business with the Public), XII (Margins), IV (Business Conduct), VI (Doing Business on the Trading Floor), VIII (Market-Makers, Trading Crowds and Modified Trading Systems), and XXIV (Index Options).

[18] The Exchange also proposes to amend Rule 24.2.03(b) to correct a technical error in which Current Rule 24.2.03(b) and (b)(1) mistakenly reference paragraph .02(a), instead of .03(a).

[19] *See* Amendment No. 1, *supra* note 5.

[20] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* Securities Exchange Act Release No. 74687 (April 8, 2015), 80 FR 20032 (April 14, 2015) (SR–CBOE–2015–023) (order approving the listing of MSCI EAFE and MSCI Emerging Markets Index options on the Exchange).

The proposed listing standards would require that non-U.S. component securities of the FTSE Developed Europe Index that are not subject to CSAs will not, in the aggregate, represent more than 32.5% of the weight of the index. With respect to the FTSE Emerging Index, the proposed listing standards would require that non-U.S. component securities that are not subject to CSAs must not, in the aggregate, represent more than 35% of the weight of the index. The Exchange stated that both indexes are broad-based indexes and have high market capitalizations. Given the high number of constituents and the overall high capitalization of the FTSE Developed Europe and FTSE Emerging Indexes and the deep and liquid markets for the securities underlying these indexes, the Exchange believes that the concerns for market manipulation or disruption in the underlying markets are greatly reduced. Additionally, in its filing, the Exchange represented that it has an adequate surveillance program for FTSE Developed Europe and FTSE Emerging Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in these products.

The proposed listing standards require that, during the time options on the FTSE Developed Europe Index and the FTSE Emerging Index are traded on the Exchange, the current index value is widely disseminated at least once every 15 seconds by one or more major market data vendors. However, the Exchange may continue to trade FTSE Developed Europe and FTSE Emerging Index options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every 15 seconds by one or more major market data vendors, provided that FTSE Developed Europe Index futures contracts or FTSE Emerging Index futures contracts, respectively, are trading and prices for those contracts may be used as a proxy for the current index value.[23]

In addition, the proposed listing standards require the Exchange to reasonably believe that it has adequate system capacity to support the trading of options on the FTSE Developed Europe Index and the FTSE Emerging Index. As noted above, the Exchange represents that it believes it and the OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of FTSE Developed Europe and FTSE Emerging Index options.

As a national securities exchange, the Exchange is required, under Section 6(b)(1) of the Act,[24] to enforce compliance by its members, and persons associated with its members, with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. As noted above, the Exchange states that, except as modified by the proposal, Exchange Rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB would equally apply to FTSE Developed Europe and FTSE Emerging Index options. The Exchange also states that FTSE Developed Europe and FTSE Emerging Index options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules, margin requirements, and trading rules.

The Commission further believes that the Exchange's proposed position and exercise limits, trading hours, margin, strike price intervals, minimum tick size, series openings, and other aspects of the proposed rule change related to the listing and trading of FTSE Developed Europe and FTSE Emerging Index options are appropriate and consistent with the Act.

Finally, the Exchange has proposed to modify the maintenance listing criteria applicable to current MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options, and to be applied to FTSE Developed Europe and FTSE Emerging Index options, to specify that the listing criteria set forth in subparagraphs .01(a)(7), .02(a)(7), and .03(a)(7) of Rule 24.2, which generally provide that non-U.S. component securities (stocks or American Depositary Receipts) that are not subject to CSAs do not, in the aggregate, represent more than a certain percent of the weight of the applicable indexes, be met as of the first day of the month following the Reporting Authority's review of the weighting of the constituents in the applicable index, but in no case less than a quarterly basis. According to the Exchange, any change to the CSA percentages described in subparagraph 7 of Rules 24.2.01(a), 24.2.02(a), and 24.2.03(a) would most likely occur during the rebalancing process by which constituent securities are added or removed from the indexes.[25] Further, the Exchange states that the relevant indexes are rebalanced no more frequently than quarterly.[26] Based on these representations, the Commission believes that the proposed amendment to the maintenance listing criteria is appropriate and consistent with the Act.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2016–049 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

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[23] The Exchange notes that, because trading in the components of the FTSE Developed Europe Index ends at approximately 10:30 a.m. (Chicago Time), there will not be a current FTSE Developed Europe Index level calculated and disseminated during a portion of the time when FTSE Developed Europe Index options would be traded (from approximately 10:30 a.m. (Chicago Time) to 3:15 p.m. (Chicago Time)). However, the Exchange states that FTSE Developed Europe Index futures contracts will be trading during this time period and that the futures prices would be a proxy for the current FTSE Developed Europe Index level during this time period. The Exchange states that E-mini FTSE Developed Europe Index futures contracts are listed for trading on CME. Similarly, because trading in the components of the FTSE Emerging Index ends at approximately 3:10 p.m. (Chicago Time), there will not be a current FTSE Emerging Index level calculated and disseminated during a portion of the time when FTSE Emerging Index options would be traded (from approximately 3:10 p.m. (Chicago Time) to 3:15 p.m. (Chicago Time)). However, the Exchange states that FTSE Emerging Index futures contracts will be trading during this time period and that the futures prices would be a proxy for the current FTSE Emerging Index level during this time period. The Exchange states that E-mini FTSE Emerging Index futures contracts are listed for trading on CME.

[24] 15 U.S.C. 78f(b)(1).

[25] *See* Amendment No. 1, *supra* note 5.

[26] *See id.*

All submissions should refer to File Number SR–CBOE–2016–049. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–049 and should be submitted on or before September 29, 2016.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[27] for approving the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register.** As noted above, the Commission previously approved the listing and trading of options on the MSCI EAFE Index and the MSCI Emerging Markets Index on the Exchange,[28] and the current proposal is substantially similar to the rules applicable to MSCI EAFE and MSCI Emerging Markets Index options that were approved by the Commission. The original proposal was subject to a full 21-day comment period and no comments were received on the proposal. In Amendment No. 1, the Exchange proposed changes to limit the scope of its original proposal with respect to (1) the CSA requirements applicable to FTSE Developed Europe, FTSE Emerging, MSCI EAFE, and MSCI Emerging Markets Index options; and (2) the maintenance listing criteria applicable to FTSE Developed Europe, FTSE Emerging, MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options.

The Commission believes that the changes proposed in Amendment No. 1 act to limit the scope of certain aspects of the original proposal, as described above,[29] and do not raise any new substantive issues or unique regulatory concerns not originally subjected to the proposal's full 21-day comment period, during which no comments were received. Therefore, the Commission finds that good cause exists to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–CBOE–2016–049), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21643 Filed 9–7–16; 8:45 am]

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[27] 15 U.S.C. 78s(b)(2).

[28] *See supra* note 22.

[29] *See supra* note 5.

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78749; File No. SR–NASDAQ–2016–121]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change Related to the NASDAQ Options Market LLC's Pricing at Chapter XV, Section 2(6)

September 1, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 29, 2016, The Nasdaq Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes related to the NASDAQ Options Market LLC's ("NOM") pricing at chapter XV, section 2(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to file to provide notice that Execution Access, LLC[3] will offer a credit to its clients authorized to transact business at EA, provided those clients, who are also NOM Participants ("dual access client"), qualify for one of the two highest Market Access and Routing Subsidy or "MARS" Payment tiers available on NOM. The NOM Participant must qualify for the MARS Payment tier in order for the dual access client to receive a credit on EA. The dual access client may be an affiliate entity of the NOM Participant at EA.[4] The qualification and credit are explained further below.[5] The purpose of this proposal is to lower prices to transact U.S. Treasury securities on EA in response to competitive forces in the treasury markets and increase trading on NOM.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Execution Access, LLC ("EA") is a broker-dealer that operates a fully electronic central limit order book known as eSpeed. EA facilitates the matching of client orders in U.S. Treasury securities.

[4] Affiliates would include other legal entities under common control.

[5] Nasdaq believes that EA is not a "facility" of the Exchange. 15 U.S.C. 78c(a)(2). The Act defines "facility" to include an exchange's "premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service." EA is a distinct entity that is separate from NOM and engages in a discrete line of business that is not "for

MARS Program

The Exchange currently offers MARS Payments to qualifying NOM Participants in chapter XV, section 2(6). NOM Participants that have System Eligibility[6] and have executed the requisite number of Eligible Contracts[7] in a month are paid rebates based on average daily volume ("ADV") in a month. Today, MARS Payments are currently based on a 3 tier rebate based on ADV. The Exchange pays a MARS Payment of $0.07 for ADV of 2,500 Eligible Contracts. The Exchange pays a MARS Payment of $0.09 for ADV of 5,000 Eligible Contracts. Finally, the Exchange pays a MARS Payment of $0.11 for ADV of 10,000 Eligible Contracts. The Exchange pays a MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System and meet the requisite Eligible Contracts ADV.

EA Credit Proposal

Provided a dual access client qualifies for NOM's MARS Payment Tier 2 or 3 in a given month, EA will credit the dual access client or its affiliate a specific dollar amount on its monthly billing statement for that same corresponding month, depending on the MARS Payment tier the dual access client qualified for in that month on NOM.[8] If the dual access client qualified for NOM MARS Payment Tier 2, which requires ADV of 5,000 Eligible Contracts, the dual access client would receive a credit of $22,000 on its EA bill for the corresponding month. If the dual access client qualified for NOM MARS Payment Tier 3, which requires ADV of 10,000 Eligible Contracts, the dual access client would receive a credit of $40,000 on its EA bill for the corresponding month.[9] These rebates are the same rebates that any qualifying NOM Participant would receive for transacting Eligible Contracts.

By way of example, if the dual access client, who has System Eligibility, transacts ADV of 7,000 Eligible Contracts on NOM during the month of August 2016, the dual access client would be credited $22,000 on its EA August 2016 monthly statement because the dual access client qualified for NOM MARS Payment Tier 2. As provided in NOM's fee schedule, the dual access client would also be paid a $0.09 per contract rebate for all Eligible Contracts transacted on NOM during the month of August 2016. This rebate would be the same rebate paid to any qualifying NOM Participant. The NOM Participant would receive the MARS rebate on its NOM August 2016 monthly billing statement.

The Exchange would offer the credit to dual access clients as of November 1, 2016, if approved by the SEC.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[10] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[12]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission*[13] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[14] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost."[15]

Further, "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."[16] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

EA Credit Proposal

Nasdaq, Inc., the parent company of NOM and EA, has various affiliates that offer services to firms conducting a securities business. In the U.S., Nasdaq has six options exchanges and three equities exchanges along with EA and a routing broker-dealer.[17] Firms have overlapping memberships at various Nasdaq entities. Any firm may register to become a member of The NASDAQ Stock Market LLC and transact business on NOM. There are various NOM members that are members of other options exchanges and transact business on other platforms such as eSpeed. Today, NOM does not offer a U.S. Treasury securities product. EA and

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the purpose of effecting or reporting a transaction" on an exchange.

[6] To qualify for MARS, a Participant's routing system ("System") is required to: (1) Enable the electronic routing of orders to all of the U.S. options exchanges, including NOM; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with NOM's API to access current NOM match engine functionality. Further, the Participant's System would also need to cause NOM to be the one of the top three default destination exchanges for individually executed marketable orders if NOM is at the national best bid or offer ("NBBO"), regardless of size or time, but allow any user to manually override NOM as a default destination on an order-by-order basis. Any NOM Participant would be permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and satisfies NOM that it appears to be robust and reliable. The Participant remains solely responsible for implementing and operating its System. *See* Chapter XV, Section 2(6).

[7] MARS Eligible Contracts include electronic Firm, Non-NOM Market Maker, Broker-Dealer or Joint Back Office orders that add liquidity, excluding Mini Options. *See* Chapter XV, Section 2(6).

[8] This credit will not be paid by NOM, but by EA. The credit is not transferable and will offset transaction fees.

[9] The Exchange would request that the dual access client consent to certain information sharing for purposes of providing information related to the credit.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

[13] *NetCoalition* v. *SEC*, 615 F.3d 525 (D.C. Cir. 2010).

[14] *See NetCoalition*, at 534–535.

[15] *Id.* at 537.

[16] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[17] Nasdaq, Inc. owns and operates, among other entities, Nasdaq, NASDAQ PHLX, LLC, NASDAQ BX, INC., the International Securities Exchange, Inc., ISE GEMINI, LLC, ISE Mercury, LLC, EA and Nasdaq Execution Services.

NOM offer different services to firms, such as banking institutions seeking to establish securities positions and hedge their portfolios.

This proposal for EA to pay a credit to a dual access client is reasonable because it would attract greater liquidity to NOM for the benefit of its market participants because it would encourage NOM Participants to execute a greater number of Eligible Contracts [18] on NOM to qualify for the higher MARS Payment tiers. Order flow benefits all market participants that have an opportunity to interact with the additional order flow. NOM Participants receive a corresponding benefit in terms of a NOM MARS Payment in return for that order flow.

This proposal for EA to pay a credit to a dual access client is equitable and not unfairly discriminatory because all NOM Participants are eligible to qualify for MARS Payments provided they have System Eligibility and execute the requisite number of Eligible Contracts on NOM. The Exchange uniformly pays MARS Payments to NOM Participants.

Diversity in the products and services offered by Nasdaq among its affiliates enhances competition and benefits consumers. Dual access clients seeking to transact business on NOM and also on EA are eligible to receive multiple benefits with this proposal that would result in lower costs to transact business on NOM and EA. This proposal will continue to treat all NOM Participants in a similar fashion as explained in more detail below. Likewise, all EA clients will be treated uniformly. The proposal does not create a disparity in the treatment of market participants transacting business on NOM or EA. This proposal would allow dual access clients to benefit from lower costs of transacting business as a result of providing a benefit to NOM in terms of order flow. NOM will reward all NOM Participants that execute Eligible Contracts on NOM in a uniform fashion; all NOM Participants are eligible to qualify for MARS and receive rebates.

The Exchange believes that this proposal serves the interests of customers, issuers, broker-dealers, and other persons using the facilities of NOM because this proposal continues to offer rebates to NOM Participants directing order flow to NOM to the benefit of all NOM Participants who then have access to the additional liquidity. The credit being paid by EA is not inconsistent with the Act in any respect. The NOM rebates and the EA credit are both reasonable for the reasons mentioned herein. The proposed EA credit should attract order flow to NOM to the benefit of NOM Participants. The Exchange's proposal continues to provide all NOM Participants an opportunity to receive rebates and therefore enables them to lower costs. The proposal does not restrict any existing rebates or increase any other fees, and therefore will not place any NOM Participants that do not qualify for the rebate in a less favorable position. In fact, to the extent that the proposal succeeds in its competitive goal of attracting more order flow to NOM, it has the potential to benefit all NOM Participants.

The proposed credit to dual access clients is consistent with an equitable allocation of fees because it benefits not only NOM Participants receiving the MARS rebate, but has the potential to benefit all other NOM Participants as well. Specifically, the proposal is intended to attract a larger amount of Eligible Contracts to the Exchange. Today, NOM offers MARS Payments to encourage NOM to direct Eligible Contracts to the Exchange, and the proposal will provide an additional incentive to direct order flow to NOM.

The proposed credit to dual access clients is structured as a volume-based discount. The Commission has previously accepted such volume tiers, and they have been adopted by various options exchanges. Tiers are a well-established method for drawing liquidity to an exchange by paying higher rebates to those members that direct a greater amount of order flow to the Exchange. Volume tiers in both the cash equity and options markets provide reduced pricing to the heaviest liquidity providers and liquidity takers. As with existing tiers, the higher the percentage of a market participant's executed orders on NOM, the higher the rebate. This proposal pays MARS Payments on the volume executed only on NOM, thereby targeting the benefit on the exchange. The MARS rebate is an equitable means of incentivizing dual access clients to increase the amount of Eligible contracts transacted on NOM to receive multiple benefits.

The Exchange's proposal is not unfairly discriminatory. MARS Payments will continue to be paid uniformly to NOM Participants that qualify for these rebates. Any NOM Participant may qualify for MARS. Those NOM Participants that send a certain amount of Eligible Contracts today already benefit by receiving MARS rebates for those Eligible Contracts when transacted on NOM. This proposal seeks to incentivize those Participants to send more Eligible Contracts to receive not only the MARS rebate, but also another benefit associated with their participation at EA. Any firm may register to access EA to transact U.S. Treasury securities and therefore would become eligible for the credit, provided the market participant transacted the requisite Eligible Contracts on NOM. Therefore, the proposal does not discriminate among NOM Participants, but rather continues to incentivize them to execute as many Eligible Contracts as possible on NOM in order to receive the benefit of the rebate on those orders. The proposal may also incentivize NOM Participants to register to transact business on EA to enjoy even more benefits in addition to the MARS rebates they may receive on NOM if they qualify.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed fee changes are competitive and do not impose a burden on inter-market competition. Today, other venues offer rebate programs, discounted fees and incentives for maintain routing systems.[19] In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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[18] *See* note 6 above.

[19] *See* Phlx's Pricing Schedule at Section B (Customer Rebate Program) and Section IV, Part E (MARS). Also, the International Securities Exchange LLC ("ISE") offers a lower Market Maker Taker Fee for Select Symbols of $0.44 per contract for Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts. *See* ISE's Fee Schedule.

EA Credit Proposal

This proposal is not anti-competitive in nature. Today, NOM Participants are eligible to receive MARS Payments without being clients of EA. The proposal does not require NOM Participants to become clients of EA; rather dual access clients are simply provided another benefit for transacting volume on NOM, as NOM Participants. The proposal does not burden intra-market competition on NOM; rather, it incentivizes NOM Participants to execute as many Eligible Contracts on NOM as possible to obtain higher MARS rebates and reduce costs—an inherently pro-competitive result. NOM and EA offer firms diverse product offerings. This proposal simply encourage NOM Participants to utilize EA's services and provides them discounted costs. NOM Participants that do not become clients of EA continue to receive the same rebates as NOM Participants that are clients of EA when executing the same number of Eligible Contracts on NOM. For these reasons the Exchange does not believe that the proposal imposes a burden on competition with respect to NOM Participants. The Exchange does not believe that a NOM Participant transacting Eligible Contracts on NOM is in any worse of a position with this proposal. All NOM Participants are eligible to participate in the MARS program and receive rebates, provided they qualify for MARS.

The NOM Participant that does not choose to be a client of EA is not able to take advantage of the credit in this proposal, because it has not expended the effort to become a client of EA and therefore transacted business on eSpeed, but it is free to do so at any time. Any firm may register to access EA to transact U.S. Treasury securities and therefore would become eligible for the credit, provided the market participant transacted the requisite Eligible Contracts on NOM. Fundamentally, this proposal offers market participants a price decrease, the essence of competition. There is no evidence to support a conclusion that competition would be harmed with the implementation of this proposal. The interests of all investors are furthered by the lowering of prices as a result of robust competition. NOM does not have market power with respect to U.S. Treasury securities. Therefore, offering a credit to dual access clients on EA is not anti-competitive and does not result in an undue burden on inter-market competition with respect to U.S. Treasury securities.

The Exchange believes that paying the proposed MARS Payment to qualifying NOM Participants that have System eligibility and have executed the Eligible Contracts in a month does not create an undue burden on intra-market competition because the Exchange is counting all Firm, JBO, Broker-Dealer and Professional volume toward the Eligible Contracts. The increased order flow will bring increased liquidity to the Exchange for the benefit of all Exchange participants. To the extent the purpose of the proposed MARS is achieved, all the Exchange's market participants, including Professionals and Broker-Dealers, should benefit from the improved market liquidity.

The Exchange believes that the proposed change would increase both inter-market and intra-market competition by providing an opportunity to lower costs on eSpeed and offering NOM Participants continued rebates, thereby lowering costs. The proposed EA credit would enable dual access clients to lower their costs of transacting on eSpeed, as well as NOM, and incent them to provide additional liquidity at the Exchange, thereby enhancing the quality of its markets and increasing the volume of contracts traded on NOM. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

With respect to inter-market competition on NOM, today there is fierce competition in options pricing. Several exchanges offer programs similar to MARS.[20] The rebates reduce the transaction cost of doing business on NOM, which ultimately reduces the costs passed on to investors. As a result, investors would be more likely to direct order flow to NOM, which results in tighter spreads, increased trading opportunities, and an overall better functioning trading platform. Thus both the liquidity provider and the investing public would benefit from the price reduction. The rebates on NOM would also provide an incentive for other options exchanges to match the discounted prices by developing their own innovative pricing strategies or increasing the quality of their execution services.

With respect to the intra-market burden on competition on EA, the market has very few barriers to entry. Many broker-dealers can facilitate transactions in U.S. Treasuries. EA is one of a number of broker-dealers that offers a trading platform in U.S. Treasury securities. The transaction fees are competitive and often bilaterally negotiated. Competition comes in the form of negotiation with clients over fees, which clients compare with similar fees they are charged on other similar competitive platforms. The Exchange does not believe this proposal imposes an undue burden on intra-market competition for EA because of the nature of its business model and competitive nature of its fees. With respect to the inter-market burden on competition, EA has various broker-dealer competitors. The competitive nature of pricing for EA's services vis-a-vis its competitors has led to the reduction of fees charged by EA over the last few years. The ability to negotiate pricing provides market participants with negotiating power at each venue. Furthermore, as compared to several years ago, the increased number of competitors in this space has forced pricing to be reduced on all venues, which has resulted in lower costs to participants of these venues, including EA. Introducing this credit for participants transacting business on EA, provided they transact business on NOM, will further lower costs to these participants on both venues.

The Exchange believes EA's proposed pricing will not impose an undue harm on intra-market competition but rather will benefit market participants transacting business on EA by lowering costs and providing a more competitive environment to transact treasury securities. EA competitors can adjust their prices to compete with EA. There is no need for EA competitors to replicate the same proposal offered by EA. Fundamentally, the proposal is a price reduction, and therefore is consistent with achieving the benefits of the robust competition that clearly exists in this market. Forcing other competitors to lower prices to compete with EA benefits investors.

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[20] The Chicago Board of Options Exchange, Inc. ("CBOE") currently offers a similar Order Routing Subsidy ("ORS") and Complex Order Routing Subsidy ("CORS") which, similar to the current proposal, allows CBOE members to enter into subsidy arrangements with CBOE Trading Permit Holders ("TPHs") that provide certain order routing functionalities to other CBOE TPHs and/or use such functionalities themselves. *See* Securities Exchange Act Release Nos. 55629 (April 13, 2007), 72 FR 19992 (April 20, 2007) (SR–CBOE–2007–34) and 57498 (March 14, 2008), 73 FR 15018 (March 20, 2008) (SR–CBOE–2008–27). Also, NYSE MKT LLC ("NYSE MKT") had a Market Access and Connectivity Subsidy ("MAC") which allowed NYSE MKT members to enter into subsidy arrangements with ATP Holders that provided certain order routing functionalities to other ATP Holders and/or use such functionalities themselves. The NYSE MKT program was discontinued. *See* Securities Exchange Act Release Nos. 71532 (February 19, 2014), 79 FR 9563 (February 12, 2015) (SR–NYSEMKT–2014–12) and 75609 (August 11, 2015), 80 FR 48132 (August 5, 2015) (SR–NYSEMKT–2015–59).

Given the robust competition for volume among options markets, many of which offer the same products, attracting order flow by offering rebates is consistent with the pro-competitive goals of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve or disapprove such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2016–121 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–121. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–121 and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21492 Filed 9–7–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78751; File No. SR–NYSEMKT–2016–82]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Amending the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule To Amend the Date That Two Wireless Connections to Third Party Data Feeds Are Expected To Be Available

September 1, 2016.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 24, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE MKT Equities Price List ("Price List") and the NYSE Amex Options Fee Schedule ("Fee Schedule") to amend the date that two wireless connections to third party data feeds are expected to be available. The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Price List and Fee Schedule to amend the date that two wireless connections to third party data feeds are expected to be available.

The Exchange's co-location[4] services include the means for Users[5] to receive market data feeds from third party markets ("Third Party Data") through a wireless connection.[6] The Exchange recently amended the Price List and Fee Schedule to:

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[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80). The Exchange operates a data center in Mahwah, New Jersey (the "data center") from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a "User" means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the Price List and Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC ("NYSE LLC") and NYSE Arca, Inc. ("NYSE Arca"). *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67).

- Expand the existing wireless connection to Bats Pitch BZX Gig shaped data ("BZX") to include Bats Pitch BYX Gig shaped data ("BYX"); and
- expand the existing wireless connection to Bats EDGX Gig shaped data ("EDGX") to include Bats EDGA Gig shaped data ("EDGA").[7]

In its filing with the Securities and Exchange Commission ("Commission") making such amendment, the Exchange stated that the proposed connectivity was expected to be available no later than September 1, 2016, and amended the Price List and Fee Schedule to note that connectivity to the BYX and EDGA data feeds was expected to be available no later than such date.[8]

The Exchange now proposes to amend the Price List and Fee Schedule to update the expected availability date to December 31, 2016. As previously stated, the Exchange will announce the date that such wireless connections will be made available through a customer notice.

No other aspect of the wireless connection to BZX and BYX or EDGX and EDGA (together, the "Additional Third Party Data") is being amended.

By way of background, as with all wireless connections to Third Party Data, the Exchange would utilize a network vendor to provide a wireless connection to the Additional Third Party Data through wireless connections from an Exchange access center to its data center in Mahwah, New Jersey, through a series of towers equipped with wireless equipment. A User that wished to receive Additional Third Party Data would enter into a contract with the relevant third party provider, which would charge the User the applicable market data fees. The Exchange would charge the User fees for the wireless connection.[9]

The Exchange proposes to offer the wireless connections to provide Users with an alternative means of connectivity to Additional Third Party Data. Currently, Users can receive such Third Party Data from wireless networks offered by third party vendors.[10] Users may also receive connections to Additional Third Party Data through other methods, including, for example, from another User, through a telecommunications provider, or over the internet protocol ("IP") network.[11]

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [12] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[13]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[14] in general, and section 6(b)(4) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change furthers the objectives of section 6(b)(5) of the Act,[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because amending the Price List and Fee Schedule to update the expected availability date for connectivity to the BYX and EDGA data feeds to December 31, 2016, would add greater clarity to the Price List and Fee Schedule regarding when such connectivity will be available and allow the Exchange more time to establish and test connectivity to the BYX and EDGA data feeds.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because connectivity to the BYX and EDGA data feeds would be available to all Users on an equal basis (*i.e.,* the connectivity to such feeds will be made available to all Users at the same time). Such connectivity is completely voluntary. Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain the Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the

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[6] *See* Securities Exchange Act Release No. 76750 (December 23, 2015), 80 FR 81648 (December 30, 2015) (SR–NYSEMKT–2015–85).

[7] *See* Securities Exchange Act Release No. 78376 (July 21, 2016), 81 FR 49311 (July 27, 2016) (SR–NYSEMKT–2016–70). The Commission designated the proposed rule change as operative upon filing with the Commission. *Id.* at 49315.

[8] *Id.* at 49312.

[9] A User only receives the Third Party Data for which it enters into a contract with the third party provider.

[10] Currently, at least six third party vendors offer Users wireless network connections using wireless equipment installed on towers and buildings near the data center.

[11] The IP network is a local area network available in the data center. *See* Securities Exchange Act Release No. 74220 (February 6, 2015), 80 FR 7894 (February 12, 2015) (SR–NYSEMKT–2015–08) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

[12] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[13] *See* SR–NYSEMKT–2013–67, *supra* note 5, at 50471. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2016–61 and SR–NYSEArca–2016–122.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(5).

Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that amending the Price List and Fee Schedule to update the expected availability date for connectivity to the BYX and EDGA data feeds to December 31, 2016, will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because connectivity to the BYX and EDGA data feeds would be available to all Users on an equal basis (*i.e.*, the connectivity to such feeds will be made available to all Users at the same time). The proposed change would add greater clarity to the Price List and Fee Schedule regarding when such connectivity will be available and allow the Exchange more time to establish and test connectivity to the BYX and EDGA data feeds. In addition, Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain the Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)[18] of the Act and subparagraph (f)(2) of Rule 19b–4[19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEMKT–2016–82 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEMKT–2016–82. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEMKT–2016–82, and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21494 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

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[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78763; File No. SR–BatsEDGA–2016–15]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 11.21 To Describe Changes to System Functionality Necessary To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program

September 2, 2016.

I. Introduction

On June 29, 2016, Bats EDGA Exchange, Inc. ("Exchange" or "EDGA") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Exchange Rule 11.21(c) to describe changes to System[3] functionality to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan" or "Pilot").[4] The proposed rule change was published for comment in the **Federal Register** on July 20, 2016.[5] The Commission received one comment letter from the Exchange in response to the Notice.[6] On September 1, 2016, the Exchange filed an amendment to the proposed rule change ("Amendment No. 1"), which supersedes and replaces the proposal in its entirety.[7]

This order provides notice of filing of Amendment No. 1 and approves the proposal, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Amended Proposal

Proposed Exchange Rule 11.21(c) would specify the order handling for the following order types in Pilot Securities: (i) Market Orders; (ii) orders with a Market Peg instruction; (iii) MidPoint Peg Orders; (iv) orders with a Discretionary Range instruction; (v) Market Maker Peg Orders; (vi) Supplemental Peg Orders; and (vii) orders subject to the Display-Price Sliding process. As proposed, such order handling would apply to all orders entered into the System for Pilot Securities (*i.e.*, Test Group One, Test Group Two, Test Group Three, and the Control Group). Additionally, the Exchange proposes to amend the last sentence of Rule 11.21(a)(4) to specify that the current permissible price increments are set forth under Exchange Rule 11.6(i), Minimum Price Variation.

The Exchange proposes in Exchange Rule 11.21(c) specific procedures for handling, executing, repricing and displaying certain order types and order type instructions. The provisions in proposed Rule 11.21(c) would apply to all Pilot Securities. Further, the Exchange proposes that only the provisions in Exchange Rules 11.21(a) and (b) would be limited to the Pilot Period.[8]

1. Market Orders

Proposed Exchange Rule 11.21(c)(1) provides that for purposes of determining whether the execution price of a Market Order is more than 5 percent worse than the national best bid or offer ("NBBO")[9] under current Exchange Rule 11.8(a)(7), the execution price for a buy (sell) will be rounded down (up) to the nearest permissible increment.[10]

2. Market Peg Instruction

Under Exchange Rule 11.9(c)(8)(B), an order with a Market Peg instruction is pegged to the contra-side NBBO. EDGA Users can specify that such an order will offset the inside quote on the contra side of the market by an amount ("Offset Amount"). Under proposed Exchange Rule 11.21(c)(2), the Exchange proposes not to accept orders with a Market Peg instruction, regardless of price, in any Pilot Security.[11]

3. MidPoint Peg Orders

Under Exchange Rule 11.9(c)(9), the System automatically adjusts the price of a MidPoint Peg Order in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive midpoint of the NBBO, or one minimum price variation inside the same side of the NBBO as the MidPoint Peg Order.

Under proposed Exchange Rule 11.21(c)(3), the Exchange proposes that MidPoint Peg Orders for Pilot Securities would not be permitted to alternatively peg to one minimum price variation inside the same side of the NBBO as the order.[12]

4. Discretionary Range Instruction

Under Exchange Rule 11.6(d), an order with a Discretionary Range instructionis a limit order with a displayed or non-displayed ranked price and size and an additional non-displayed "discretionary price." The Exchange proposes to not accept orders with a Discretionary Range instruction, regardless of price, in any Pilot Security.[13]

5. Market Maker Peg Orders

Under Exchange Rule 11.8(f), a Market Maker Peg Order is a limit order that is automatically priced by the System at the Designated Percentage (as defined in Exchange Rule 11.20(d)(2)D)) away from the then current national best bid ("NBB") or national best offer ("NBO"), or if no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor in order to comply with the quotation requirements for Market Makers set forth in Exchange Rule 11.20(d). The Exchange proposes that Market Marker Peg Orders to buy (sell) be rounded up (down) to the nearest permissible increment when the pricing results in an impermissible increment.

6. Supplemental Peg Orders

Under Exchange Rule 11.8(g), a Supplemental Peg Order is a non-displayed limit order that posts to the Exchange Book and thereafter is eligible for execution at the NBB for buy orders and NBO for sell orders against routable orders that are equal to or less than the aggregate size of the Supplemental Peg Order interest available at that price. The Exchange proposes not to accept Supplemental Peg Orders, regardless of price, for any Pilot Security.[14]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "System" is defined as the "electronic communications and trading facility designated by the Board of Directors of the Exchange through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away." *See* Exchange Rule 1.5(aa).

[4] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order"). Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Plan.

[5] Securities Exchange Act Release No. 78330 (July 14, 2016), 81 FR 47223 ("Notice").

[6] *See* Letter to Brent J. Fields, Secretary, Commission, from Eric Swanson, General Counsel, Exchange, dated July 26, 2016 ("Exchange Letter").

[7] In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.21(c) to all Pilot Securities; (2) clarify in Rule 11.21(c)(1) that the increment for Market Orders and Rule 11.21(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.21(c)(2) that orders with a Market Peg instruction, Rule 11.21(c)(4) that orders with a Discretionary Range, and Rule 11.21(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.21(c)(3) that MidPoint Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend orders with a Non-Displayed instruction; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

[8] The Exchange proposes to clarify in the introduction to Exchange Rule 11.21 that only the provisions in 11.21(a) and 11.21(b) would be in effect during the Pilot Period.

[9] *See* Exchange Rule 1.5(o).

[10] *See* Amendment No. 1.

[11] *Id.*

[12] *Id.*

[13] *Id.*

7. Display-Price Sliding

Under Exchange Rule 11.6(l)(1)(B), an order eligible for display by the Exchange, that at the time of entry would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market, would be ranked at the locking price in the Exchange Book and displayed by the System at one minimum price variation below the current NBO (for bids) or one minimum price variation above the current NBB (for offers). The ranked and displayed prices of an order subject to Display-Price Sliding may be adjusted once or multiple times depending on the instructions of a User and changes to the prevailing NBBO.

The Exchange proposes that orders subject to the Display-Price Sliding that are unexecutable at the locking price will be ranked at the midpoint of the NBBO, and displayed one minimum price variation below (above) the current NBO (NBB) for bids (for offers) for all Pilot Securities. In the Control Group, Test Group One, and Test Group Two, these orders would be initially ranked at the locking price and displayed one minimum price variation away. If a subsequent incoming Post-Only Order arrives on the Exchange book on the opposite side, then the orders subject to Display-Price Sliding would be adjusted to rank at the midpoint of the NBBO and continue to be displayed at one minimum price variation away. In Test Group Three, orders subject to Display-Price Sliding would be ranked at the midpoint of the NBBO and displayed at one minimum price variation away. In addition, the Exchange proposes to cancel orders subject to Display-Price Sliding when the NBBO widens and a contra-side Non-Displayed Order is resting on the Exchange Book at a price that such order would adjust, and the User has selected a single price adjustment. Like today, if the User has selected multiple price adjustments an order subject to Display-Price Sliding would not cancel in this scenario.

III. Discussion and Commission's Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, the Commission finds that the proposal, as modified by Amendment No. 1,[15] is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities exchange.[16] Specifically, the Commission finds that the rule change is consistent with Section 6(b)(5) of the Exchange Act, which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted in the Approval Order, the Plan is by design, an objective, data-driven test to evaluate how a wider tick size would impact trading, liquidity, and market quality of securities of smaller capitalization companies. In addition, the Plan is designed with three Test Groups and a Control Group, to allow analysis and comparison of incremental market structure changes on the Pilot Securities and is designed to produce empirical data that could inform future policy decisions.

The Exchange proposes certain changes to modify the operation of the System for compliance with the Plan. For example, the Exchange proposes to clarify how Market Orders and Market Maker Peg Orders would be rounded to permissible increments under the Plan. The Commission finds that these changes are consistent with the Section 6(b)(5) of the Exchange Act[17] and Rule 608 of Regulation NMS[18] because they implement the Plan and clarify Exchange rules.

In addition, the Exchange proposes to eliminate certain order types and modify certain order handling functions for Pilot Securities. Specifically, the Exchange proposes to no longer accept three order types: Orders with a Market Peg instruction, orders with a Discretionary Range instruction, and Supplemental Peg Orders. The Exchange noted that these orders are infrequently used in Pilot Securities. The Exchange stated that eliminating these order types for Pilot Securities could reduce System complexity and maintain consistent functionality among all Pilot Securities. Finally, the Exchange noted that these order types would have limited ability to execute under Test Group Three.

The Exchange also proposes to change the handling of orders subject to Display-Price Sliding in Pilot Securities. Orders that are subject to Display Price-Sliding in Pilot Securities that are unexecutable at the locking price will be ranked at the midpoint of the NBBO and displayed one minimum variation away.

Finally, the Exchange proposes to modify the handling of MidPoint Peg Orders in Pilot Securities. As proposed, MidPoint Peg Orders would not be able to alternatively peg to one minimum price variation inside the same side of the NBBO as the order. The Exchange noted that there is a de minimis usage of the alternative pegging function in Pilot Securities that does not justify the complexity and risk to the System that would be created by re-programming the System to support the function.

In the Notice, the Commission noted that proposed rule changes, other than those necessary for compliance with Plan, that are targeted at Pilot Securities, that have a disparate impact on different Test Groups and the Control Group, and that are to apply temporarily only for the Pilot Period, could bias the results of the Pilot and undermine the value of the data generated in informing future policy decisions. The Commission notes that the Exchange has modified its proposal so that those proposed changes that are not necessary for compliance with the Plan apply equally to all three Test Groups and the Control Group, and their duration is not limited to the Pilot Period. Thus, the Commission believes that the incremental design of the Pilot is maintained such that the data generated by the Test Groups and the Control Group could allow the Commission and interested parties to compare the change in market structure of each group vis-à-vis the other groups. Further, the Commission does not believe that the changes would bias the results of the Pilot or undermine the value of the data generated in informing future policy decisions.

Accordingly, the Commission finds that the proposed rule change, as modified by Amendment No.1, is consistent with the requirements of the Exchange Act.

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[14] *Id.*

[15] The Commission notes that the Exchange Letter was submitted in connection with the Exchange's original proposal. Because the Exchange has filed Amendment No. 1, which supersedes and replaces the Exchange's original proposal in its entirety, the Commission does not believe it is necessary to summarize or respond to the Exchange Letter.

[16] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 17 CFR 242.608.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as modified by Amendment No. 1, is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGA–2016–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGA–2016–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGA–2016–15 and should be submitted on or before September 29, 2016.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, the Exchange proposes to: (1) Apply the changes in proposed Rule 11.21(c) to all Pilot Securities; (2) clarify in Rule 11.21(c)(1) that the increment for Market Orders and Rule 11.21(c)(5) that the increment for Market Maker Peg Orders will be at "permissible" increments; (3) state in Rule 11.21(c)(2) that orders with a Market Peg instruction, Rule 11.21(c)(4) that orders with a Discretionary Range, and Rule 11.21(c)(6) that Supplemental Peg Orders will not be accepted in Pilot Securities; (4) clarify in Rule 11.21(c)(3) that MidPoint Peg Orders may not be alternatively pegged to one minimum price variation inside the same side of the NBBO as the order; (5) delete the proposal to amend orders with a Non-Displayed instruction; and (6) clarify how orders subject to Display-Price Sliding will operate when they are unexecutable at the locking price.

The Commission believes that Amendment No. 1 modifies the proposal so that it does not cause a disparate impact on different Test Groups and the Control Group. In addition, the Commission notes that the Pilot is scheduled to start on October 3, 2016, and accelerated approval would ensure that the rules of the Exchange would be in place for the start of the Pilot. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[19] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[20] that the proposed rule change (SR–BatsEDGA–2016–15), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21647 Filed 9–7–16; 8:45 am]

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[19] 15 U.S.C. 78s(b)(2).

[20] *Id.*

[21] 17 CFR 200.30–3(a)(12)

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form 10–K, SEC File No. 270–48, OMB Control No. 3235–0063

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 10–K (17 CFR 249.310) is filed by issuers of securities to satisfy their annual reporting obligations under to Section 13 or 15(d) of the Exchange Act ("Exchange Act") (15 U.S.C. 78m or 78o(d)). The information provided by Form 10–K is intended to ensure the adequacy of information available to investors and securities markets about an issuer. Form 10–K takes approximately 2003.7884 hours per response to prepare and is filed by approximately 8,137 respondents. We estimate that 75% of the approximately 2003.7884 hours per response (1,502.8413 hours) is prepared by the company for an annual reporting burden of 12,228,620 hours (1,502.8413 hours per response × 8,137 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 1, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21520 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 602; SEC File No. 270–404; OMB Control No. 3235–0461.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 602 of Regulation NMS (17 CFR 240.602), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 602 of Regulation NMS, Dissemination of Quotations in NMS securities, contains two related collections. The first collection of information is found in Rule 602(a).[1] This third-party disclosure requirement obligates each national securities exchange and national securities association to make available to quotation vendors for dissemination to the public the best bid, best offer, and aggregate quotation size for each ''subject security,'' as defined under the Rule. The second collection of information is found in Rule 602(b).[2] This disclosure requirement obligates any exchange member and over-the-counter (''OTC'') market maker that is a ''responsible broker or dealer,'' as defined under the Rule, to communicate to an exchange or association its best bids, best offers, and quotation sizes for subject securities.[3]

It is anticipated that twenty respondents, consisting of nineteen national securities exchanges and one national securities association, will collectively respond approximately 2,184,303,485,488 times per year pursuant to Rule 602(a) at 18.22 microseconds per response, resulting in a total annual burden of approximately 11,640 hours. It is anticipated that no respondents will have a reporting burden pursuant to Rule 602(b).[4]

Thus, the aggregate third-party disclosure burden under Rule 602 is11, 640 hours annually which is comprised of 11,640 hours relating to Rule 602(a) and 0 hours relating to Rule 602(b).

Written comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number. Please direct your written comments to: Pamela C. Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 2, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21640 Filed 9–7–16; 8:45 am]

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[1] 17 CFR 242.602(a).

[2] 17 CFR 242.602(b).

[3] Under Rule 602(b)(5), electronic communications networks (''ECNs'') have the option of reporting to an exchange or association for public dissemination, on behalf of customers that are OTC market makers or exchange market makers, the best-priced orders and the full size for such orders entered by market makers on the ECN, to satisfy such market makers' reporting obligation under Rule 602(b). Since this reporting requirement is an alternative method of meeting the market makers' reporting obligation, and because it is directed to nine or fewer persons (ECNs), this collection of information is not subject to OMB review under the Paperwork Reduction Act (''PRA'').

[4] For the reporting obligation under Rule 602(b), the respondents are exchange members and OTC market makers. The Commission believes that communication of quotations through an exchange's electronic trading system effectively means that exchange members currently have no reporting burden under Rule 602(b) for these quotations. The Commission also believes that there are presently no OTC market makers that quote other than on an exchange.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78759; File No. SR–FINRA–2016–024]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of Proposed Rule Change To Create an Academic Corporate Bond TRACE Data Product

September 2, 2016.

I. Introduction

On June 28, 2016, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 7730 to create a new data product consisting of data on historic transactions in corporate bonds reported to the Trade Reporting and Compliance Engine (''TRACE'') that would be available to institutions of higher learning (the ''Academic Corporate Bond TRACE Data product''). The proposed rule change was published for comment in the **Federal Register** on July 7, 2016.[3] The Commission received three comments in response to the proposal.[4] On August 9, 2016, FINRA extended to September 2, 2016, the time period within which the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.[5] FINRA responded to the comments on August 23, 2016.[6] This order grants approval of the proposed rule change.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78219 (July 1, 2016), 81 FR 44359 (''Notice'').

[4] *See* letters to Brent J. Fields, Secretary, Commission, from Sean Davy, Managing Director, Capital Markets Division and Leslie M. Norwood, Managing Director and Associate General Counsel, Municipal Securities Division, SIFMA, dated July 27, 2016 (''SIFMA Letter''); Mike Nicholas, Chief Executive Officer, BDA, dated July 28, 2016 (''BDA Letter''); and Kumar Venkataraman, Ph.D., James M. Collins Chair in Finance, Edwin L. Cox School of Business, Southern Methodist University, dated August 9, 2016 (''Venkataraman Letter'').

II. Description of the Proposed Rule Change

FINRA has proposed to make available to institutions of higher learning a new Academic Corporate Bond TRACE Data product that would contain transaction-level data on historic transactions in corporate bonds and would include masked counterparty information. Currently, FINRA makes publicly available real-time data in TRACE-eligible securities and a Historic TRACE Data product that provides transaction-level data, on an 18-month delayed basis, without any counterparty information.[7]

In the Notice, FINRA stated that academic researchers cannot use the existing Historic TRACE Data product to track the behavior of an individual dealer or group of dealers due to the lack of any counterparty information. FINRA stated that this proposal responds to requests from academics for FINRA to make available an enhanced data product that includes counterparty identification.[8] FINRA has represented that establishing a new TRACE data product with masked counterparty identifiers could allow academic researchers to track activity in a variety of ways, including by individual dealer or by groups of dealers, and could facilitate the ability of academic researchers to study the impact of various events on measures such as intermediation costs, dealer participation, and liquidity.[9]

The proposal would amend FINRA Rule 7730 to create a new Academic Corporate Bond TRACE Data product consisting of historic transaction-level data on all transactions in corporate bonds reported to TRACE, including Rule 144A transactions in corporate bonds but not including transactions that are List or Fixed Offering Price Transactions [10] or Takedown Transactions.[11] FINRA noted that the existing Historic TRACE Data product also does not include List or Fixed Offering Price Transactions or Takedown Transactions. Under the proposal, a transaction included in the Academic Corporate Bond TRACE Data product would be aged at least 36 months before being incorporated into the dataset. Each such transaction would not include any MPIDs, but would instead include a masked dealer identifier.[12]

The Academic Corporate Bond TRACE Data product would be available only to institutions of higher education.[13] Any institution of higher education subscribing to the product would be required to agree: (1) Not to attempt to reverse-engineer the identity of any market participant; (2) not to redistribute the data; (3) to disclose each intended use of the data (including a description of each study being performed and the names of each individual who will have access to the data for the study); (4) to ensure that any data presented in work product be sufficiently aggregated to prevent reverse engineering of any dealer or transaction; and (5) to return or destroy the data if the agreement is terminated.[14]

FINRA stated that it would announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval, and that the effective date would be no later than 270 days following publication of that *Regulatory Notice*.[15] In addition, FINRA stated that it plans to file a separate proposed rule change to address market data fees for the Academic Corporate Bond TRACE Data product before the effective date of this proposal.[16]

III. Summary of Comments and FINRA's Response

The Commission received three comments on the proposed rule change [17] and a response letter from FINRA.[18] Two commenters generally supported the proposal. One of these commenters, an academic researcher, stated that, "[t]o study the impact of banking regulation on bond dealers, it is necessary to obtain information on the identity of dealers associated with each transaction. The Historic TRACE data product does not contain this information." [19] The commenter pointed to the masked dealer identifier information in the new proposed product as a significant advantage over the Historic TRACE Data product, and stated that he "expect[s] that FINRA's new Academic data initiative will lead to an explosion in academic research on corporate bonds and provide new insights on the functioning of the bond market." [20]

A second commenter, while generally supportive of the proposal, expressed the view that FINRA could make modifications to provide additional protections against the potential for reverse engineering the data without impeding its goals of promoting academic access and research.[21] This commenter stated that the potential impact of reverse engineering could include deciphering a dealer's trading strategies and revealing confidential business information relating to specific client transactions.[22]

A third commenter opposed the proposal, arguing that it would expose dealers and their customers to unnecessary risks.[23] The commenter stated, for example, that "[i]t is very likely that, as a consequence of this proposal, private and non-educational entities will end up possessing full trade history including dealer names for every trade released." [24]

The two industry commenters offered differing views on aspects of the proposal that FINRA designed to reduce the risk of reverse engineering specific dealer identities. The second commenter thought that limiting the scope of the data product to transactions in corporate bonds, including Rule 144A transactions but excluding information on List or Fixed Offering Price Transactions or Takedown Transactions, would mitigate the risk of reverse engineering.[25] The second commenter also acknowledged that the proposal's aging period of 36 months (expanded from 24 months in an earlier iteration) would help reduce the risk of reverse engineering, but thought that an aging period of no less than 48 months would be more appropriate.[26] The third commenter supported the exclusion of List or Fixed Offering Price Transactions from the scope of the proposal and acknowledged that expanding the aging period and masking dealer identities would make reverse engineering more difficult, but expressed the view that these measures were not sufficient to reduce the risk of reverse engineering to an acceptable level.[27]

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[5] *See* letter to Katherine England, Assistant Director, Division of Trading and Markets, Commission, from Racquel L. Russell, Associate General Counsel, Regulatory Policy and Oversight, FINRA, dated August 9, 2016.

[6] *See* letter to Brent J. Fields, Secretary, Commission, from Racquel L. Russell, Associate General Counsel, Regulatory Policy and Oversight, FINRA, dated August 23, 2016 ("FINRA Response Letter").

[7] *See* FINRA Rule 7730(f)(4). *See also* Securities Exchange Act Release No. 61012 (November 16, 2009), 74 FR 61189 (November 23, 2009) (Order Approving File No. SR–FINRA–2007–006).

[8] *See* Notice, 81 FR at 44359.

[9] *See id.*

[10] FINRA Rule 6710(q) defines "List or Fixed Offering Price Transaction" as a primary market sale transaction sold on the first day of trading of a security, excluding a Securitized Product as defined in FINRA Rule 6710(m) other than an Asset-Backed Security as defined in FINRA Rule 6710(cc): (i) By a sole underwriter, syndicate manager, syndicate member, or selling group member at the published or stated list or fixed offering price; or (ii) in the case of a primary market sale transaction effected pursuant to Securities Act Rule 144A, by an initial purchaser, syndicate manager, syndicate member, or selling group member at the published or stated fixed offering price.

[11] FINRA Rule 6710(r) defines "Takedown Transaction" as a primary market sale transaction sold on the first day of trading of a security, excluding a Securitized Product other than an Asset-Backed Security: (i) By a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published or stated list or fixed offering price; or (ii) in the case of a primary market sale transaction effected pursuant to Securities Act Rule 144A, by an initial purchaser or syndicate manager to a syndicate or selling group member at a discount from the published or stated fixed offering price.

[12] *See* proposed FINRA Rule 7730(g)(5).

[13] *See* proposed FINRA Rule 7730(e).

[14] *See* Notice, 81 FR at 44359–60.

[15] *See id.* at 44360.

[16] *See id.* at 44359, n.7.

[17] *See supra* note 4.

[18] *See supra* note 6.

[19] Venkataraman Letter at 2.

[20] *Id.* at 3.

[21] *See* SIFMA Letter at 2.

[22] *See id.* at 3.

[23] *See* BDA Letter at 1.

[24] *Id.* at 2.

In addition, the two industry commenters suggested that FINRA make the transaction data available according to groupings of comparable dealers, instead of on an individual dealer level, arguing that masked dealer identifiers might not effectively protect their identities.[28] The academic commenter, who supported the proposal without modification, objected to this suggestion of the other commenters and argued that providing the data by pre-set groupings could stifle academic research. This commenter explained that individual dealer-level data would allow academic researchers to maintain needed flexibility to construct samples of dealers in a manner best suited to their specific research question.[29]

The two industry commenters also offered suggestions regarding strengthening and enforcing the proposed user agreements. The second commenter urged FINRA to develop "robust operational frameworks around the execution and ongoing oversight of user agreements . . . [in order to] further mitigate concerns of reverse engineering and information leakage." [30] The third commenter stated that, although the proposed user agreements are designed to prevent redistribution of the data, federal and state Freedom of Information Act ("FOIA") laws could defeat such intention if the transaction data is held by a public university and classified as a public record.[31] This commenter also raised concerns about data security, suggesting that the data could be subject to hacking or data theft during transmission or when held by an institution of higher education.[32]

In its response to these comments, FINRA stated that it "continues to believe that the instant proposal strikes the appropriate balance between addressing risks regarding potential reverse engineering with facilitating the ability of academic researchers to study the market for corporate bonds." [33] FINRA explained that it made significant changes to an earlier iteration of the proposal, including limiting the scope of the proposed data product to corporate bonds. In FINRA's view, transaction data on corporate bonds does not present a high risk of accurate reverse engineering because generally these bonds are traded by a greater number of dealers.[34] FINRA also noted that it raised the minimum age of included transactions from 24 months to 36 months. FINRA expressed its belief that the "totality of the measures" included in this proposal adequately address the commenters' concerns.[35] FINRA also stated that the user agreements will include provisions geared towards data security and designed to limit the risk of public disclosure due to federal or state FOIA requests. FINRA noted that it will utilize its existing processes to oversee user agreements. FINRA further explained that it will monitor use of the Academic Corporate Bond TRACE Data product and may consider amending or discontinuing the product if it finds that academics are reverse engineering the data.[36]

Finally, although one commenter suggested expanding the user group for Academic Corporate Bond TRACE Data to other non-profit organizations engaged in research activities,[37] FINRA responded that "in light of the sensitivities" surrounding making transaction-level data available, even with masked dealer identifiers, "FINRA believes it is appropriate to restrict the availability of Academic Corporate Bond TRACE Data to institutions of higher education at this time." [38]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[39] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[40] which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that establishing the Academic Corporate Bond TRACE Data product in the manner described in the proposal is reasonable and consistent with the Act. The Commission does not believe that the commenters have raised any issue that would preclude approval of the proposal at this time. The proposal appears reasonably designed to minimize the possibility that the product might reveal the identities or trading strategies of particular market participants. FINRA has limited the scope of the data product to include only transactions in corporate bonds, will mask counterparty identities, is requiring transaction data to be aged 36 months prior to inclusion, and will require subscribers to execute a user agreement imposing restrictions on use of the data. The required user agreements appear reasonably designed to limit information leakage while providing institutions of higher education a potentially important new tool to analyze concerns about bond market liquidity.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[41] that the proposed rule change (SR–FINRA–2016–024) be, and hereby is, approved.

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[25] *See* SIFMA Letter at 2.

[26] *See id.*

[27] *See* BDA Letter at 1–2.

[28] *See* SIFMA Letter at 3 (suggesting that FINRA aggregate dealers by the peer group criteria used in FINRA report cards); BDA Letter at 2–3 (suggesting that FINRA aggregate dealers by size).

[29] *See* Venkataraman Letter at 3. For example, the commenter noted that academic researchers may wish to aggregate dealers into groups based on whether or not they are active market makers with high market share, whether they specialize in high yield bonds or investment grade bonds, or whether they increase liquidity provision or withdraw participation when volatility is high. *See id.*

[30] SIFMA Letter at 4.

[31] *See* BDA Letter at 2.

[32] *See id.*

[33] FINRA Response Letter at 2.

[34] *See id.* FINRA also noted that any reverse engineering of market participant identities would be in direct contravention of explicit prohibitions in the user agreements. *See id.*

[35] *See id.*

[36] *See id.* at 2–3 and n. 4.

[37] *See* SIFMA Letter at 4–5.

[38] FINRA Response Letter at 3. FINRA noted that non-academic institutions may still subscribe to Historic TRACE Data, which includes transaction-level data without dealer-level information. *See id.*

[39] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[40] 15 U.S.C. 78o–3(b)(6).

[41] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21642 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78746; File No. SR–BatsBZX–2016–52]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delay the Implementation of Amendments to the Options Regulatory Fee

September 1, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to delay implementation of recently enacted amendments to the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c) regarding its Options Regulatory Fee ("ORF").

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently submitted a proposed rule change to modify the fee schedule applicable to the Exchange's options platform ("BZX Options") to decrease ORF from $0.0010 per contract side to $0.0008 per contract.[6] The Exchange also proposed to expand the application of the per-contract ORF to each Member and non-Member for all options transactions cleared by OCC in the "customer" range, regardless of the exchange on which the transaction occurs. In order to provide market participants additional time to assess the impact of these changes to ORF on their transactions and order execution scenarios, the Exchange is delaying the implementation date of the fee until February 1, 2017.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6 of the Act.[8] The Exchange also believes that its proposal furthers the objectives of section 6(b)(5) of the Act[9] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes delaying the implementation of ORF will provide market participants additional time to assess the impact of the ORF on their transactions and order execution scenarios, and that implementation of the fee on February 1, 2017 will benefit investors and the public interest.[10]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The ORF is not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. Therefore, the Exchange does not believe delaying the implantation of ORF till February 1, 2017 will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] *See* Securities Exchange Release No. 78453 (August 1, 2016), 81 FR 51954 (August 5, 2016) (SR–BatsBZX–2016–42).

[7] The Exchange notes that its fee schedule states that it may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. *See* the Exchange's fee schedule available at *http://batstrading.com/support/fee_schedule/bzx/* (dated August 1, 2016). The Exchange initially filed the proposed fee change on August 11, 2016 (SR–BatsBZX–2016–49). On August 19, 2016, the Exchange withdrew SR–BatsBZX–2016–49 and submitted SR–BatsBZX–2016–51. On August 22, 2016, the Exchange withdrew SR–BatsBZX–2016–51 and submitted this filing.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] The Exchange notes that other exchanges have delayed the implementation of fees that were previously published by the Commission. *See* Securities Exchange Act Release Nos. 72605 (July 14, 2014), 79 FR 42066 (July 18, 2014) (SR–Phlx–2014–44); 67068 (May 29, 2012), 77 FR 33256 (June 5, 2012) (SR–Nasdaq–2012–064); 66287 (February 1, 2012), 77 FR 6161 (February 7, 2012) (SR–FINRA–2012–008); *and* 57183 (January 22, 2008), 73 FR 5249 (January 29, 2008) (SR–Nasdaq–2008–007).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–BatsBZX–2016–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBZX–2016–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2016–52, and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21488 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78748; File No. SR–BatsEDGA–2016–20]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

September 1, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 19, 2016, Bats EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a rule change to amend the fee schedule applicable to Members and non-Members[5] of the Exchange pursuant to Exchange Rules 15.1(a) and (c). Specifically, the Exchange proposes to adopt new fee code IX, which would be appended to all orders that are routed to the Investors Exchange, Inc. ("IEX") using the using the Destination Specific ("DIRC") routing strategy.[6]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved IEX as a registered national securities exchange,[7] which is to begin a symbol-by-symbol roll out of symbols on August 19, 2016.[8] As of that date, the Exchange will begin routing orders to IEX and Members may elect that their orders be routed directly to IEX using the DIRC routing strategy. The Exchange, therefore, proposes to amend its fee schedule to adopt new fee code IX, which would be appended to all orders that are routed to IEX using the DIRC routing strategy. Orders yielding fee code IX in securities priced at or above $1.00 will be charged a fee of $0.0010 per share. Orders yielding fee code IX in securities priced below $1.00 will charged 0.30% of the transaction's dollar value.

The proposed change would enable the Exchange to charge a rate reasonably related to the rate that Bats Trading, Inc. ("Bats Trading"), the Exchange's affiliated routing broker-dealer, would be charged for routing orders to IEX, when it does not qualify for a volume tier reduced fee.[9] As a result, when Bats Trading routes an order to IEX which removes liquidity against a non-displayed order, it will be charged a standard rate of $0.0009 per share in securities priced at or above $1.00 and

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

[6] *See* Exchange Rule 11.11(g)(14).

[7] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) ("IEX Approval Order").

[8] *See* Letter from Brad Katsuyama, CEO, IEX, to IEX's Sell-Side and Buy-Side Partners, dated June 17, 2016 (*https://www.iextrading.com/*) (stating that IEX will commence a symbol-by-symbol roll-out on August 19, 2016, concluding on September 2, 2016).

[9] The Exchange notes that IEX does not currently offer volume tiered pricing.

0.30% of the transaction's dollar value in securities priced below $1.00.[10] Bats Trading will not be charged a fee for orders it routes to IEX which remove liquidity against a displayed order.[11] Bats Trading will pass through these rates to the Exchange and the Exchange, in turn, will charge a rate of $0.0010 per share for orders in securities priced at or above $1.00 and 0.30% of the transaction's dollar value for orders in securities less than $1.00. The Exchange notes it would not be able to control whether the order it routes to IEX executes against displayed or non-displayed liquidity, and therefore, propose to charge a fee for orders that yield fee code IX based on IEX's rates for removing non-displayed liquidity. The proposed fee under fee code IX would enable the Exchange to equitably allocate its costs among all Members utilizing fee code IX.

The Exchange proposes to implement this amendment to its fee schedule on August 19, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[12] in general, and furthers the objectives of Section 6(b)(4),[13] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that by allowing customers to route specifically to IEX through Bats Trading, as it does with the other exchanges, fee code IX represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. As of August 19, 2016, IEX will charge a fee of $0.0009 per share for orders which remove liquidity against non-displayed orders and no fee for orders that remove liquidity against displayed order.[14] Because the Exchange would not be able to control whether the order it routes to IEX executes against displayed or non-displayed liquidity, it therefore, believes it is equitable and reasonable to charge a fee for orders that yield fee code IX based on IEX's rates for removing non-displayed interest. The Exchange further believes that its proposal to pass through a fee of $0.0010 per share is equitable and reasonable because it accounts for the prices charged by IEX plus the additional operation expenses that would be incurred by the Exchange in routing orders to IEX.[15] Furthermore, the Exchange notes that routing through Bats Trading is voluntary and Members may utilize other avenues to route orders to IEX, such as connecting to IEX directly. Lastly, the Exchange also believes that the proposed fee code is non-discriminatory because it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange or from pricing offered by the Exchange's competitors. The proposed rate would apply uniformly to all Members, and Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to pass through a fee of $0.0010 for Members' orders that yield fee code IX would increase intermarket competition by offering customers an alternative means to route to specifically to IEX. As stated above, routing through Bats Trading is voluntary and Members may utilize other avenues to route orders to IEX, such as connecting to IEX directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and paragraph (f) of Rule 19b–4 thereunder.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGA–2016–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGA–2016–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGA–2016–20, and should be submitted on or before September 29, 2016.

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[10] *See* IEX fee schedule *available at https://iextrading.com/trading/#fee-schedule* (effective August 19, 2016). *See also* IEX Trading Alert #2016–036, Investors Exchange Fee Schedule Effective August 19, 2016, *available at https://iextrading.com/trading/alerts/2016/036/*.

[11] *Id.*

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] *See supra* note 10.

[15] The Exchange notes that the proposed rate for fee code IX is lower that its standard routing fee of $0.0029 per share under fee code X, which it charges, for example, to orders routed to the National Stock Exchange, Inc. (''NSX'') which charges a lower rate to remove liquidity. *See* NSX's fee schedule *available at http://nsx.com/client/pricing* (charging a fee of $0.0003 per share to orders that remove liquidity).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21491 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78762; File No. SR–ICEEU–2016–010]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Certain Default Management Requirements Under Applicable Law

September 2, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2016, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule changes pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(i)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed changes is to modify the ICE Clear Europe Clearing Rules ("Clearing Rules") in order to clarify the timing of certain default management procedures in light of requirements under the European Market Infrastructure Regulation ("EMIR")[5] and relevant UK law.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the rule amendments is to modify the ICE Clear Europe Clearing Rules to clarify the timing of certain default procedures in light of regulatory requirements under EMIR and UK law.

In particular, Rule 1604(c), which applies to defaults involving an FCM/BD Clearing Member, has been revised in light of EMIR Article 48(5)–(6) and Paragraph 34(2)(d) of the UK FSMA Recognition Requirements (SI 2001/995).[6] These provisions require that the clearing house rules explicitly specify a pre-defined transfer period within which a transfer of customer positions carried by a defaulting clearing member to a new clearing member is to take place, if possible (and after which the clearing house would exercise default remedies to close out any such positions not transferred). The amendments to Rule 1604(c) specify that the clearing house will seek to transfer under the Default Portability Rules any customer positions carried by a defaulting FCM/BD Clearing Member within seven calendar days of the default, and if a transfer has not been effected within such period (or the clearing house otherwise deems it necessary for its protection), the clearing house will terminate or liquidate such contracts, subject to applicable law and its default rules. The transfer period is intended to be consistent with the timing set forth in CFTC Rule 190.03 for the transfer of customer positions carried by a defaulting FCM and for the liquidation of such contracts that have not been transferred. The amendments do not otherwise affect the rights or obligations of the clearing house or clearing members in respect of such a default. The amendments are also consistent with the general approach in place for non-FCM/BD Clearing Members in paragraph 6(f) of the applicable Standard Terms Annexes to the Rules.

2. Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act[7] and the regulations thereunder applicable to it, and are consistent with the prompt and accurate clearance of and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[8] The changes to the Rules clarify the timing of certain actions to be taken in the management of a default of an FCM/BD Clearing Member, in order to comply with requirements under EMIR and UK law, and do not limit the authority of the clearing house to act under its default management rules for its protection. As such, ICE Clear Europe believes that the changes will generally promote the prompt and accurate clearance and settlement of securities and derivatives transactions, and further the public interest in the safe and effective clearing of such transactions. ICE Clear Europe does not believe the amendments will adversely affect the safeguarding of securities and funds in its custody or control or for which it is responsible. The changes are thus consistent with the requirements of Section 17A of the Act.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. ICE Clear Europe is adopting amendments to the Clearing Rules to clarify the timing of certain default management procedures in light of regulatory requirements. ICE Clear Europe does not believe that these changes will impose significant additional costs on Clearing Members or other market participants. ICE Clear Europe also does not believe the amendments will adversely affect access to clearing by Clearing Members or their customers or otherwise adversely affect Clearing Members or market participants. In this regard, the changes will apply to all FCM/BD Clearing Members, and accordingly are not expected to affect competition among Clearing Members or in the market for clearing services generally.

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(i).

[5] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC Derivatives, Central Counterparties and Trade Repositories, as well as various implementing regulations and technical standards.

[6] Paragraph 34(2)(d) of the UK Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 (SI 2001/995), which was added by UK Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (SI 2013/504), Part 4, Paragraph 5(6). Citation has been added by SEC staff and confirmed by ICEEU's outside counsel by telephone on August 31, 2016.

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

ICE Clear Europe has not solicited or received any written comments with respect to the proposed changes. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule changes have become effective upon filing pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(4)(i)[11] thereunder. The amendments effect a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible, and does not significantly affect the respective rights or obligations of the clearing agency or persons using its clearing service, within the meaning of Rule 19b–4(f)(4)(i). As noted above, the amendments clarify the timing of certain default management actions by the clearing house, including the period in which a transfer of customer positions of an FCM/BD Clearing Member will be attempted and after which the clearing house in which the clearing house will exercise default remedies to close out remaining positions. These changes are intended to comply with requirements under EMIR and UK law, and to be consistent with the timing specified in applicable CFTC regulations. The amendments do not otherwise affect the rights or obligations of the clearing house or clearing members.

At any time within 60 days of the filing of the proposed rule changes, the Commission summarily may temporarily suspend such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2016–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2016–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation#rule-filings.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2016–010 and should be submitted on or before September 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2016–21646 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78738; File No. SR–NASDAQ–2016–103]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Exchange-Traded Managed Funds

August 31, 2016.

I. Introduction

On July 13, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the common shares ("Shares") of the following Exchange-Traded Managed Funds: Ivy Focused Growth NextShares; Ivy Focused Value NextShares; and Ivy Energy NextShares (individually, "Fund," and collectively, "Funds"). On July 14, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on July 27, 2016.[4] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment No. 1 thereto.

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(i).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 amended and replaced the proposed rule change in its entirety.

[4] *See* Securities Exchange Act Release No. 78385 (Jul. 21, 2016), 81 FR 49341 ("Notice").

II. Exchange's Description of Proposed Rule Change

The Exchange proposes to list and trade the Shares of each Fund under Nasdaq Rule 5745, which governs the listing and trading of Exchange-Traded Managed Fund Shares, as defined in Nasdaq Rule 5745(c)(1). Each Fund is a series of Ivy NextShares ("Trust").[5] The Exchange represents that the Trust is registered with the Commission as an open-end investment company and has filed a registration statement on Form N–1A ("Registration Statement") with the Commission.[6]

Ivy Investment Management Company ("Adviser") will be the adviser to the Funds. ALPS Distributors, Inc. will be the principal underwriter and distributor of each Fund's Shares. Waddell & Reed Services Company, doing business as WI Services Company ("WISC"), will act as the administrator and accounting agent to the Funds. State Street Bank and Trust Company ("State Street") will act as the custodian and transfer agent to the Funds. In addition, State Street has entered into agreements with WISC pursuant to which State Street will serve as sub-administrator and sub-accounting agent to the Funds.

The Exchange has made the following representations and statements in describing the Funds.[7]

A. Principal Investment Strategies of the Funds

According to the Exchange, each Fund will be actively managed and will pursue the various principal investment strategies described below.[8]

1. Ivy Focused Growth NextShares

The investment objective of this Fund is to provide growth of capital. The Fund normally will invest primarily in a portfolio of common stocks issued by large-capitalization, growth-oriented companies with above-average levels of profitability and that the Adviser believes have the ability to sustain growth over the long term. Although the Fund primarily will invest in securities issued by large-capitalization companies (defined as companies with market capitalizations of at least $10 billion at the time of acquisition), it may invest in securities issued by companies of any size.

2. Ivy Focused Value NextShares

The investment objective of this Fund is to provide capital appreciation, with a secondary objective of providing current income. The Fund normally will invest in the common stocks of companies that the Adviser believes are undervalued, trading at a significant discount relative to the intrinsic value of the company as estimated by the Adviser and/or are out of favor in the financial markets, but have a favorable outlook for capital appreciation. Although the Fund will often invest in securities issued by large-capitalization companies (defined as companies with market capitalizations of at least $10 billion at the time of acquisition), it may invest in securities issued by companies of any size.

3. Ivy Energy NextShares

The investment objective of this Fund is to provide capital growth and appreciation. The Fund will invest, under normal circumstances, at least 80% of its net assets in the common stock of companies within the energy sector, which includes all aspects of the energy industry, such as exploration, discovery, production, distribution or infrastructure of energy, and/or alternative energy sources.

B. Portfolio Disclosure & Composition File

Consistent with the disclosure requirements that apply to traditional open-end investment companies, a complete list of current Fund portfolio positions will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. Funds may provide more frequent disclosures of portfolio positions at their discretion.

As defined in Nasdaq Rule 5745(c)(3), the "Composition File" is the specified portfolio of securities and/or cash that a Fund will accept as a deposit in issuing a Creation Unit of Shares, and the specified portfolio of securities and/or cash that a Fund will deliver in a redemption of a Creation Unit of Shares. The Composition File will be disseminated through the National Securities Clearing Corporation once each business day before the open of trading in Shares on such day and also will be made available to the public each day on a free Web site.[9] Because the Funds seek to preserve the confidentiality of their current portfolio trading program, a Fund's Composition File generally will not be a pro rata reflection of the Fund's investment positions. Each security included in the Composition File will be a current holding of the Fund, but the Composition File generally will not include all of the securities in the Fund's portfolio or match the weightings of the included securities in the portfolio. Securities that the Adviser is in the process of acquiring for a Fund generally will not be represented in the Fund's Composition File until their purchase has been completed. Similarly, securities that are held in a Fund's portfolio but in the process of being sold may not be removed from its Composition File until the sale program is substantially completed. Funds creating and redeeming Shares in kind will use cash amounts to supplement the in-kind transactions to the extent necessary to ensure that Creation Units are purchased and redeemed at NAV. The Composition File also may consist entirely of cash, in which case it will not include any of the securities in the Fund's portfolio.[10]

C. Intraday Indicative Value

For each Fund, an estimated value of an individual Share, defined in Nasdaq Rule 5745(c)(2) as the "Intraday Indicative Value," will be calculated and disseminated at intervals of not more than 15 minutes throughout the Regular Market Session[11] when Shares trade on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the Intraday

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[5] According to the Exchange, the Trust and certain affiliates of the Trusts have obtained exemptive relief under the Investment Company Act of 1940 ("1940 Act"). *See* Investment Company Act Release No. 31816 (Sept. 9, 2015) (File No. 812–14526). The Exchange represents that, in compliance with Nasdaq Rule 5745(b)(5), which applies to Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that each Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933, as amended.

[6] *See* Registration Statement on Form N–1A for the Trust dated April 18, 2016 (File Nos. 333–210814 and 811–23155).

[7] The Commission notes that additional information regarding the Trust, the Funds, and the Shares, including investment strategies, risks, creation and redemption procedures, calculation of net asset value ("NAV"), fees, distributions, and taxes, among other things, can be found in the Notice and Registration Statement, as applicable. *See supra* notes 4 and 6, respectively, and accompanying text.

[8] According to the Exchange, additional information regarding the Funds also will be available on the public Web site for the Funds.

[9] The free Web site containing the Composition File will be *www.nextshares.com*.

[10] In determining whether a Fund will issue or redeem Creation Units entirely on a cash basis, the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution for a Fund than Authorized Participants because of the Adviser's size, experience and potentially stronger relationships in the fixed- income markets.

[11] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4:00 a.m. to 9:30 a.m. Eastern Time or "E.T."; (2) Regular Market Session from 9:30 a.m. to 4:00 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4:00 p.m. or 4:15 p.m. to 8:00 p.m. E.T.).

Indicative Value will be calculated on an intraday basis and provided to Nasdaq for dissemination via the Nasdaq Global Index Service. The Intraday Indicative Value will be based on current information regarding the value of the securities and other assets held by a Fund.[12] The purpose of the Intraday Indicative Value is to enable investors to estimate the next-determined NAV so they can determine the number of Shares to buy or sell if they want to transact in an approximate dollar amount (*e.g.*, if an investor wants to acquire approximately $5,000 of a Fund, how many Shares should the investor buy?).[13]

D. NAV-Based Trading

Shares will be purchased and sold in the secondary market at prices directly linked to the Fund's next-determined NAV using a new trading protocol called "NAV-Based Trading." All bids, offers, and execution prices of Shares will be expressed as a premium/discount (which may be zero) to the Fund's next-determined NAV (*e.g.*, NAV − $0.01, NAV+$0.01).[14] A Fund's NAV will be determined each business day, normally as of 4:00 p.m. Eastern Time. Trade executions will be binding at the time orders are matched on Nasdaq's facilities, with the transaction prices contingent upon the determination of NAV. Nasdaq represents that all Shares listed on the Exchange will have a unique identifier associated with their ticker symbols, which will indicate that the Shares are traded using NAV-Based Trading.

According to the Exchange, member firms will utilize certain existing order types and interfaces to transmit Share bids and offers to Nasdaq, which will process Share trades like trades in shares of other listed securities.[15] In the systems used to transmit and process transactions in Shares, a Fund's next-determined NAV will be represented by a proxy price (*e.g.*, 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (*e.g.*, NAV − $0.01 would be represented as 99.99; NAV+$0.01 as 100.01).

To avoid potential investor confusion, Nasdaq represents that it will work with member firms and providers of market data services to seek to ensure that representations of intraday bids, offers and execution prices of Shares that are made available to the investing public follow the "NAV − 0.01/NAV+$0.01" (or similar) display format. Specifically, the Exchange will use the NASDAQ Basic and NASDAQ Last Sale data feeds to disseminate intraday price and quote data for Shares in real time in the "NAV − $0.01/NAV+$0.01" (or similar) display format. Member firms may use the NASDAQ Basic and NASDAQ Last Sale data feeds to source intraday Share prices for presentation to the investing public in the "NAV − $0.01/NAV+$0.01" (or similar) display format. Alternatively, member firms may source intraday Share prices in proxy price format from the Consolidated Tape and other Nasdaq data feeds (*e.g.*, Nasdaq TotalView and Nasdaq Level 2) and use a simple algorithm to convert prices into the "NAV − $0.01/NAV+$0.01" (or similar) display format. Prior to the commencement of trading in a Fund, the Exchange will inform its members in an Information Circular of the identities of the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Shares will be subject to Rule 5745, which sets forth the initial and continued listing criteria applicable to Exchange-Traded Managed Fund Shares. A minimum of 50,000 Shares and no less than two creation units of each Fund will be outstanding at the commencement of trading on the Exchange.

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Every order to trade Shares of the Funds is subject to the proxy price protection threshold of plus/minus $1.00, which determines the lower and upper threshold for the life of the order and whereby the order will be cancelled at any point if it exceeds $101.00 or falls below $99.00, the established thresholds.[18] With certain exceptions, each order also must contain the applicable order attributes, including routing instructions and time-in-force information, as described in Nasdaq Rule 4703.[19]

Nasdaq also represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[20] The Exchange represents that its surveillance procedures are adequate to properly monitor trading of Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG")[21] regarding trading in Shares, and in exchange-traded securities and instruments held by the Funds (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of a Fund's portfolio holdings), and FINRA may obtain trading information regarding such trading from other markets and other entities. In addition, the Exchange may obtain information regarding trading in Shares, and in exchange-traded securities and instruments held by the Funds (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of a Fund's portfolio holdings), from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

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[12] The Intraday Indicative Value disseminated throughout each trading day would be based on the same portfolio as used to calculate that day's NAV. Funds will reflect purchases and sales of portfolio positions in their NAV the next business day after trades are executed.

[13] Because, in NAV-Based Trading, prices of executed trades are not determined until the reference NAV is calculated, buyers and sellers of Shares during the trading day will not know the final value of their purchases and sales until the end of the trading day. A Fund's Registration Statement, Web site, and any advertising or marketing materials will include prominent disclosure of this fact. Although Intraday Indicative Values may provide useful estimates of the value of intraday trades, they cannot be used to calculate with precision the dollar value of the Shares to be bought or sold.

[14] According to the Exchange, the premium or discount to NAV at which Share prices are quoted and transactions are executed will vary depending on market factors, including the balance of supply and demand for Shares among investors, transaction fees and other costs in connection with creating and redeeming creation units of Shares, the cost and availability of borrowing Shares, competition among market makers, the Share inventory positions and inventory strategies of market makers, the profitability requirements and business objectives of market makers, and the volume of Share trading.

[15] According to the Exchange, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. Prior to the commencement of trading in a Fund, the Exchange will inform its members in an Information Circular of the effect of this characteristic on existing order types.

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] *See* Nasdaq Rule 5745(h).

[19] *See* Nasdaq Rule 5745(b)(6).

[20] The Exchange states that FINRA provides surveillance of trading on the Exchange pursuant to a regulatory services agreement, and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) the dissemination of information regarding the Intraday Indicative Value and Composition File; (d) the requirement that members deliver a prospectus to investors purchasing Shares prior to or concurrently with the confirmation of a transaction; and (e) information regarding NAV-Based Trading protocols.

The Information Circular also will identify the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained. As noted above, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. The Information Circular will discuss the effect of this characteristic on existing order types. In addition, Nasdaq intends to provide its members with a detailed explanation of NAV-Based Trading through a Trading Alert issued prior to the commencement of trading in Shares on the Exchange.

Nasdaq states that the Adviser is not a registered broker-dealer, although it is affiliated with a broker-dealer.[22] The Exchange represents that the Adviser has implemented a fire wall with respect to its affiliated broker-dealer regarding access to information concerning the composition of, and changes to, each Fund's portfolio.[23] The Reporting Authority[24] will ensure that the Composition File will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding each Fund's portfolio positions and changes in the positions. In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or a sub-adviser to a Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, the applicable entity will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as the case may be, regarding access to information concerning the composition of, and changes to, the relevant Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with section 11A(a)(1)(C)(iii) of the Act,[25] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Information regarding NAV-based trading prices, best bids and offers for Shares, and volume of Shares traded will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. All bids and offers for Shares and all Share trade executions will be reported intraday in real time by the Exchange to the Consolidated Tape and separately disseminated to member firms and market data services through the Exchange data feeds. Once a Fund's daily NAV has been calculated and disseminated, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file[26] to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily (on each business day that the New York Stock Exchange is open for trading) and provided to Nasdaq via the Mutual Fund Quotation Service ("MFQS") by the fund accounting agent. As soon as the NAV is entered into MFQS, Nasdaq will disseminate the value to market participants and market data vendors via the Mutual Fund Dissemination Service so all firms will receive the NAV per share at the same time.

The Exchange further represents that it may consider all relevant factors in exercising its discretion to halt or suspend trading in Shares. Nasdaq will halt trading in Shares under the conditions specified in Nasdaq Rule 4120 and in Nasdaq Rule 5745(d)(2)(C). Additionally, Nasdaq may cease trading Shares if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. To manage the risk of a non-regulatory Share trading halt, Nasdaq has in place back-up processes and procedures to ensure orderly trading.

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[21] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of a Fund's portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[22] *See* Notice, supra note 4, 81 FR at 49341.

[23] *See id.* The Exchange further represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 ("Advisers Act"). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[24] *See* Nasdaq Rule 5745(c)(4).

[25] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[26] According to Nasdaq, File Transfer Protocol ("FTP") is a standard network protocol used to transfer computer files on the Internet. Nasdaq will arrange for the daily dissemination of an FTP file with executed Share trades to member firms and market data services.

Prior to the commencement of market trading in Shares, each Fund will be required to establish and maintain a public Web site through which its current prospectus may be downloaded. In addition, a separate Web site (*www.nextshares.com*) will include the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of Shares in Exchange trading; (b) the midpoint of the highest bid and lowest offer prices as of the close of Exchange trading, expressed as a premium/discount to NAV ("Closing Bid/Ask Midpoint"); and (c) the spread between highest bid and lowest offer prices as of the close of Exchange trading ("Closing Bid/Ask Spread."). The Web site at *www.nextshares.com* will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints, and Closing Bid/Ask Spreads over time.

The Exchange represents that all statements and representations made in this filing regarding (a) the description of the Funds' portfolios, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares of the Funds on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by any Fund to comply with the continued listing requirements, and, pursuant to its obligations under section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.[27] If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Nasdaq Rule 5800, *et seq*.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice,[28] and the Exchange's description of the Funds. The Commission notes that the Funds and the Shares must comply with the requirements of Nasdaq Rule 5745 and conditions set forth in this proposed rule change to be listed and traded on the Exchange on an initial and continued basis.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with section 6(b)(5) of the Act[29] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR–NASDAQ–2016–103), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21486 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78750; File No. SR–NYSEArca–2016–97]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to the Listing and Trading of Shares of PowerShares Government Collateral Pledge Portfolio Under NYSE Arca Equities Rule 8.600

September 1, 2016.

On July 6, 2016, NYSE Arca, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the PowerShares Government Collateral Pledge Portfolio under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on July 26, 2016.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 9, 2016. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[5] designates October 24, 2016, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2016–97).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21493 Filed 9–7–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14826]

California Disaster #CA–00255 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of California, dated 08/31/2016.

Incident: Cahalan Square Shopping Center Fire.

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[27] The Commission notes that certain other proposals for the listing and trading of Managed Fund Shares include a representation that the exchange will "surveil" for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 78005 (Jun. 7, 2016), 81 FR 38247 (Jun. 13, 2016) (SR–BATS–2015–100). In the context of this representation, it is the Commission's view that "monitor" and "surveil" both mean ongoing oversight of a fund's compliance with the continued listing requirements. Therefore, the Commission does not view "monitor" as a more or less stringent obligation than "surveil" with respect to the continued listing requirements.

[28] *See supra* note 4.

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78373 (July 20, 2016), 81 FR 48869.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

Incident Period: 06/14/2016 through 06/15/2016.

Effective Date: 08/31/2016.

EIDL Loan Application Deadline Date: 05/31/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Santa Clara

Contiguous Counties:

California: Alameda, Merced, San Benito, San Joaquin, San Mateo, Santa Cruz, Stanislaus.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for economic injury is 148260.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 31, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–21605 Filed 9–7–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice of Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration ("SBA") under Section 309 of the Small Business Investment Act of 1958, as amended, and Section 107.1900 of the Small Business Administration Rules and Regulations, SBA by this notice declares null and void the license to function as a small business investment company under the Small Business Investment Company License No. 01/71–0405 issued to Equinox Capital SBIC, L.P.

United States Small Business Administration.

Dated: August 30, 2016.

Mark Walsh,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2016–21511 Filed 9–7–16; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14824 and #14825]

Kentucky Disaster #KY–00062

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kentucky (FEMA–4278–DR), dated 08/26/2016.

Incident: Severe Storms, Tornadoes, Flooding, Landslides, and Mudslides.

Incident Period: 07/02/2016 through 07/09/2016.

Effective Date: 08/26/2016.

Physical Loan Application Deadline Date: 10/25/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 05/26/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/26/2016, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Adair, Butler, Caldwell, Calloway, Christian, Clay, Crittenden, Daviess, Edmonson, Hart, Hopkins, Livingston, Lyon, Marshall, Metcalfe, Ohio, Todd, Trigg, Union, Webster

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14824B and for economic injury is 14825B.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–21508 Filed 9–7–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

New York Credit SBIC Fund, L.P. License No. 03/03–0265; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that New York Credit SBIC Fund, L.P., One Presidential Blvd., 4th Floor, Bala Cynwyd, PA 19004, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). New York Credit SBIC Fund, L.P., proposes to purchase debt and equity security financing issued by Action Environmental Group, Inc., 300 Frank W Burr Boulevard, Suite 30, Teaneck, NJ 07666, from Brightwood Capital SBIC I, L.P., 810 Seventh Avenue, 26th floor, New York, NY 10019.

The financing is brought within the purview of § 107.730 of the Regulations because New York Credit SBIC Fund, L.P. and Brightwood Capital SBIC I, L.P. are Associates as defined under 13 CFR 107.50.

Notice is hereby given that any interested person may submit written comments on this transaction within fifteen days of the date of this publication to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: August 31, 2016.

Mark L. Walsh,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2016–21603 Filed 9–7–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 9702]

Privacy Act; System of Records: Overseas Citizens Services Records and Other Overseas Records, State-05

SUMMARY: Notice is hereby given that the Department of State proposes to consolidate two existing systems of records, Overseas Citizens Services Records, State-05 and Overseas Records, State-25, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Appendix I. The consolidated system will be titled, Overseas Citizens Services Records and Other Overseas Records, State-05.

DATES: This system of records will be effective on October 18, 2016, unless we receive comments that will result in a contrary determination.

ADDRESSES: Any persons interested in commenting on the amended system of records may do so by writing to the Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW., Washington, DC 20522–8100.

FOR FURTHER INFORMATION CONTACT: William Fischer, Acting Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW., Washington, DC 20522–8100, or at *Privacy@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State proposes that the system name be changed to "Overseas Citizens Services Records and Other Overseas Records". In accordance with the Privacy Act of 1974, the Department of State proposes to consolidate two record systems: Overseas Citizens Services Records, State-05 (previously published at 73 FR 24342) and Overseas Records, State-25 (previously published at 42 FR 49711). The primary purpose of this system of records is the adjudication of claims relating to acquisition or loss of U.S. citizenship; the protection and assistance of individuals abroad, including death cases, loan and destitution cases, welfare and whereabouts cases, prisoner (including prisoner transfer) cases; arrest cases; assistance to minors, including children who may be victims of abuse, neglect, or who are abandoned or runaways; assistance to individuals involved in child support enforcement proceedings; persons collecting federal benefits overseas; and the resolution of property, estate, and benefits claims arising under the pertinent statutes; assistance to individuals involved in international adoption cases and in possible or actual international child custody disputes and/or international parental child abduction cases, including the fulfillment of the Department's obligations and duties as the United States Central Authority under the Hague Adoption and Abduction Conventions and related authorities; oversight of accredited and approved adoption service providers and the designated accrediting entities of adoption service providers. The system will include modifications and updates to all sections, including a new exemption under (k)(4).

The Department's report was filed with the Office of Management and Budget. The amended system description, "Overseas Citizens Services Records and Other Overseas Records, State-05," will read as set forth below.

Joyce A. Barr,

Assistant Secretary for Administration, U.S. Department of State.

STATE-05

SYSTEM NAME:

Overseas Citizens Services Records and Other Overseas Records.

SECURITY CLASSIFICATION:

Unclassified and Classified.

SYSTEM LOCATION:

Department of State, Bureau of Consular Affairs, Overseas Citizens Services, SA–17, 10th Floor, Washington, DC 20522–1710 and overseas at U.S. embassies, U.S. consulates general, and U.S. consulates. (A list of overseas posts is available from the Bureau of Consular Affairs, SA–17, Department of State, Washington, DC 20522–1712.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assisted by or who otherwise interact with the Office of Overseas Citizens Services or by consular officers overseas who:

(a) Seek to establish claims to U.S. citizenship or inquire concerning possible loss of U.S. citizenship;

(b) Apply for U.S. passports in the United States and abroad or Consular Reports of Birth or Death of a U.S. Citizen Abroad;

(c) Register as U.S. citizens living, studying, working, or traveling abroad;

(d) Seek to receive and/or receive information or assistance regarding travel abroad;

(e) Seek assistance from embassies or consulates overseas or from Overseas Citizens Services;

(f) Initiate requests relating to another U.S. citizen's welfare and whereabouts or are themselves the subjects of such requests;

(g) Are reported as or otherwise believed to be missing or held hostage overseas;

(h) Are or may be a victim of a crime abroad;

(i) Are involved in a case of child welfare abroad, including children who may be victims of abuse, neglect, or who are abandoned or runaways;

(j) Are involved in a child support enforcement proceeding;

(k) Seek to take and/or take temporary refuge in a U.S. embassy or consulate;

(l) Seek to be and/or are evacuated to the United States or a third country as a result of a civil disorder, natural disaster, or other emergency overseas;

(m) Seek to receive and/or receive assistance, including financial assistance, for repatriation;

(n) Seek to receive and/or receive emergency medical assistance;

(o) Are detained, arrested, or incarcerated overseas;

(p) Seek to receive and/or receive notarial or authentication services or judicial assistance;

(q) Die overseas or are involved in the disposition of a decedent's personal estate;

(r) Have or assert an interest in property (real or personal) abroad;

(s) Are living overseas and claim or receive federal benefits;

(t) Have sought or received benefits by virtue of having been held hostage overseas or by virtue of their relationship with a person held hostage overseas;

(u) Vote in U.S. federal and/or state elections while overseas;

(v) Register with the U.S. Selective Service System while living overseas;

(w) Are seamen inquiring about consular services;

(x) Seek to receive and/or receive information or assistance regarding the Children's Passport Issuance Alert Program;

(y) Are involved in a possible or actual international child custody dispute and/or international parental child abduction case (covered individuals may include parents and/or guardians, child(ren), and/or any other parties to the case or dispute), including but not limited to a Hague Abduction Convention proceeding for return of or access to a child;

(z) Seek to adopt and/or adopt a child from a foreign country;

(aa) Participate in the intercountry adoption process;

(bb) Are children who are eligible for intercountry adoption and/or are adopted, and either immigrate to or emigrate from the United States, whether or not such adoption is covered by the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, Treaty Doc. 105–51, signed May 29, 1993 (Hague Intercountry Adoption Convention) and its implementing legislation (Intercountry Adoption Act of 2000 (IAA), (42 U.S.C. 14901 *et seq.*)) and regulations;

(cc) Seek to provide, have provided, and/or do provide intercountry adoption services, in connection with an adoption case whether or not such case is covered by the Hague Intercountry Adoption Convention and the IAA; and

(dd) Contribute to, or are a subject of, a complaint in the Complaint Registry created pursuant to 22 CFR 96.68 *et seq.*

Records may also pertain to individuals who are otherwise involved in the discussion, establishment, execution, or definition of United States foreign policy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Emergency medical and dietary loan applications; repatriation loan applications; applications for benefits for hostages and their families; seamen services records; welfare and whereabouts records; records related to missing persons and hostage cases; Reports of Presumptive Death Abroad; records of U.S. citizens who register as visiting or residing overeas; records related to federal benefits and property claims; records related to arrest cases, death and estate cases, evacuation cases, prisoner transfer cases, refuge cases, victims of crime cases, child abuse and neglect cases, abandoned children and runaway cases, and exit ban cases; records related to marriage; records related to publically available attorney and medical professional lists; records related to judicial assistance cases; records related to international adoption cases (including those covered under the Hague Adoption Convention and the Intercountry Adoption Act of 2000); records related to possible or actual international child custody disputes and/or international parental child abduction cases, including but not limited to Hague Abduction Convention proceedings for return of or access to a child; records related to minors entered into the Children's Passport Issuance Alert Program. OCS records may also include completed "Local American Citizens Skills/Resources Survey" forms; registration cards; interview worksheets; case notes; fingerprint cards; documents of identity; passenger manifests; and various related forms not otherwise stated. These records may further include communications to and from: U.S. embassies, U.S. consulates, and consular agencies; federal, state, and local government agencies; members of Congress; officials of foreign governments; U.S. and foreign courts; U.S. and foreign nongovernmental organizations, including disaster or emergency relief organizations such as the International Red Cross, Red Crescent and others; the subject(s) of the records, their relatives, and other interested parties; records involving other legal matters; and other administrative records. In addition, the system may also contain applications for passports and registration as U.S. citizens; Consular Reports of Birth Abroad; Certificates of Loss of Nationality of the United States; and Reports of Death Abroad—these records are maintained, stored, subject to and preserved as Passport Records, State–26.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(a) 8 U.S.C. 1104 (Powers and Duties of the Secretary of State);

(b) 22 U.S.C. 3904 (Functions of the Foreign Service, including protection of U.S. citizens in foreign countries under the Vienna Convention on Consular Relations and providing assistance to other agencies);

(c) 8 U.S.C. 1401, 1408, and 1409 (Citizens and nationals of the United States by birth);

(d) 22 U.S.C. 1731 (Protection of naturalized U.S. citizens in foreign countries);

(e) 22 U.S.C. 211a *et seq.* (Passport application and issuance);

(f) 22 U.S.C. 2705 (Preparation of Consular Reports of Birth Abroad);

(g) 8 U.S.C. 1501–1504 (Adjudication of possible loss of nationality and cancellation of U.S. passports and CRBAs);

(h) 22 U.S.C. 2671(b)(2)(A)–(B) and (d) (Evacuation assistance and repatriation loans for destitute U.S. citizens abroad);

(i) 22 U.S.C. 2670(j) (Provision of emergency medical, dietary and other assistance);

(j) 22 U.S.C. 2151n–1 (Assistance to arrested citizens) (Repealed, but applicable to past records);

(k) 42 U.S.C. 1973ff–1973ff–6 (Overseas absentee voting);

(l) 42 U.S.C. 402 (Social Security benefits payments);

(m) Sec. 599C of Public Law 101–513, 104 Stat. 1979, as amended (Claims to benefits by virtue of hostage status) (Benefits ended, but applicable to past records);

(n) 50 U.S.C. App. 453, 454, Presidential Proclamation No. 4771, July 2, 1980 as amended by Presidential Proclamation 7275, February 22, 2000 (Selective Service registration);

(o) 22 U.S.C. 5501–5513 (Aviation disaster and security assistance abroad; mandatory availability of airline passengers manifest);

(p) 22 U.S.C. 4195, 4196 (Official notification of death of U.S. citizens in foreign countries; transmission of inventory of effects) (22 U.S.C. 4195 repealed, but applicable to past records);

(q) 22 U.S.C. 2715b (Notification of next of kin of death of U.S. citizens in foreign countries);

(r) 22 U.S.C. 4197 (Assistance with disposition of estates of U.S. citizens upon death in a foreign country);

(s) 22 U.S.C. 4193, 4194; 22 U.S.C. 4205–4207; 46 U.S.C. 10318 (Merchant seamen protection and relief);

(t) 22 U.S.C. 4193 (Receiving protests or declarations of U.S. citizen passengers, merchants in foreign ports);

(u) 46 U.S.C. 10701–10705 (Responsibility for deceased seamen and their effects);

(v) 22 U.S.C. 2715a (Responsibility to inform victims and their families regarding crimes against U.S. citizens abroad);

(w) 22 U.S.C. 4215, 4221 (Administration of oaths, affidavits, and other notarial acts);

(x) 28 U.S.C. 1740, 1741 (Authentication of documents);

(y) 28 U.S.C. 1781–1785 (Judicial Assistance to U.S. and foreign courts and litigants);

(z) 42 U.S.C. 14901–14954; Intercountry Adoption Act of 2000, (Assistance with intercountry adoptions under the Hague Intercountry Adoption Convention, maintenance of related records);

(aa) 22 U.S.C. 9001–9011, International Child Abduction Remedies Act (Assistance to applicants in the location and return of children wrongfully removed or retained or for securing effective exercise of rights of access);

(bb) 22 U.S.C. 9101, 9111–9114, 9121–9125, 9141, International Child Abduction Prevention and Return Act of 2014 (Reporting requirements, prevention measures, and other assistance on international parental child abduction cases); and

(cc) 22 U.S.C. 4802 (overseas evacuations).

PURPOSE:

The information in the Overseas Citizens Services Records and Other

Overseas Records System is used primarily in the adjudication of claims relating to acquisition or loss of U.S. citizenship; the protection and assistance of individuals abroad, including death cases, evacuation and destitution cases, welfare and whereabouts cases, prisoner (including prisoner transfer) cases; arrest cases; assistance to minors, including children who may be victims of abuse, neglect or who are abandoned or runaways; assistance to individuals involved in child support enforcement proceedings; persons collecting federal benefits overseas; and the resolution of property, estate, and benefits claims arising under the pertinent statutes; assistance to individuals involved in international adoption cases and in possible or actual international child custody disputes and/or international parental child abduction cases, including the fulfillment of the Department's obligations and duties as the United States Central Authority under the Hague Adoption and Abduction Conventions and related authorities; oversight of accredited and approved adoption service providers and the designated accrediting entities of adoption service providers.

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in Overseas Citizens Services Records and Other Overseas Records may be shared with:

A. The Social Security Administration, Office of Personnel Management, Department of Veterans Affairs, Railroad Retirement Board, Department of Labor, and Department of the Treasury in connection with administration of U.S. federal benefits to persons living abroad;

B. The Federal Aviation Administration and National Transportation Safety Board in connection with individuals traveling abroad and aviation accidents;

C. The Department of Commerce, U.S. Maritime Administration, and U.S. Coast Guard in connection with international commerce, shipping, and seamen;

D. The Department of Health and Human Services, U.S. Public Health Service, and Centers for Disease Control in connection with international travel and public health issues;

E. The Department of Health and Human Services, and its contractors/designees, in connection with repatriation of individuals abroad;

F. The Department of Justice and the Drug Enforcement Administration in connection with the arrest or detention of individuals overseas, prisoner transfer agreements, and in connection with reporting to the National Instant Criminal Background Check System (NICS);

G. The Federal Bureau of Investigation's Office for Victim Assistance in connection with assisting victims of crime;

H. The Foreign Claims Settlement Commission in connection with the adjudication of claims of individuals against foreign governments;

I. The Selective Service in connection with Armed Services registration requirements of individuals;

J. The Department of Defense, Department of Homeland Security, Department of Justice, and the Secret Service in connection with coordinating evacuations abroad;

K. The Department of Homeland Security in connection with intercountry adoptions and in connection with processing of immigration and naturalization matters;

L. The Department of Health and Human Services in connection with child support enforcement;

M. The Internal Revenue Service for the current addresses of specifically identified taxpayers in connection with pending actions to collect taxes accrued, examinations, and/or other related tax activities, and for the names and current location of taxpayers who are held hostage abroad;

N. Federal, state, and foreign courts in connection with litigation and related matters, such as inquiries regarding child custody orders;

O. Foreign and domestic airlines in connection with assisting individuals in emergency situations, including those involving aviation disasters, individuals who may pose a threat to themselves or others, and international child abduction;

P. Funeral homes in connection with the death abroad of individuals;

Q. Shipping companies when the information is maintained pursuant to the Department's responsibilities under Titles 22 and 46 of the U.S. Code;

R. Private "wardens" or "consular liasions" designated by U.S. embassies and U.S. consulates and further defined by 7 FAM 070 Warden Systems, to serve as channels of communication with other individuals in the local community, to prepare for and assist with evacuations, disasters, and other emergency situations;

S. Foreign-based organizations of private U.S. citizens to assist individuals in evacuations and other emergency situations;

T. Foreign and U.S. nongovernmental organizations, including disaster or emergency relief organizations such as the International Red Cross and Red Crescent and others, and the media and relevant Web sites, that maintain lists of individuals who are known to be found safe from and/or are reported missing as a result of a natural or other disaster, including political upheaval, abroad;

U. Foreign governments, embassies and consulates when the information is requested or provided pursuant to customary international practice, including in compliance with consular notification and access issues under the Vienna Convention on Consular Relations and other matters related to detention and/or arrest by the foreign government, or to assist individuals in evacuations and other emergency situations;

V. INTERPOL and other domestic, international, and foreign law enforcement agencies in connection with law enforcement issues and health, safety, welfare and related matters, including child adoption and abduction cases, custody disputes and notification of next of kin;

W. U.S. state and local governments, including law enforcement agencies, prosecutors, judicial staff, guardians ad litem, departments of human services, licensing authorities, and child protective services agencies, in connection with law enforcement, health, safety, welfare and related matters, including child abduction and adoption cases, custody disputes, cases of runaways and abused or neglected children, and notification of next of kin;

X. U.S. departments, agencies and federal interagency bodies responsible for the recovery of, and investigation and prosecution of cases involving individuals taken hostage, kidnapped for ransom, or detained abroad, when the detention is covered by Executive Order 13698, issued on June 24, 2015;

Y. Family members when the subject of the record is unable or unavailable to sign a waiver and is involved in an emergency situation, and the release is for the benefit of the subject;

Z. To the subject of a welfare/whereabouts inquiry, where the inquirer requests that the Department provide information to the subject for purpose of establishing contact or passing a message;

aa. Members of Congress when the information is requested on behalf of a family member of the individual to whom access is authorized under routine use Y;

bb. Third-parties designated by a family member of the individual to whom disclosure is authorized under routine use Y in cases of individuals taken hostage, kidnapped for ransom, or detained abroad, when the detention is covered by Executive Order 13698, issued on June 24, 2015, or when there is an open U.S. law enforcement investigation under 18 U.S.C. 1203 related to a missing U.S. citizen overseas;

cc. Attorneys when the individual to whom the information pertains is the client of the attorney making the request, or when the attorney is acting on behalf of some other individual to whom access is authorized under this notice;

dd. With respect to international adoption and abduction cases, records may be shared with: (i) Individuals and entities identified by state governments to assist in intercountry adoption and abduction cases, including adoption service providers, Bar Associations and legal aid services; (ii) biological and adoptive parents, guardians, and children involved in intercountry adoption and abduction cases;

ee. With respect to international abduction cases, records may be shared with: (i) The National Center for Missing and Exploited Children; (ii) central and public authorities of, and bodies duly accredited in, member and nonmember countries of the Hague International Child Abduction Convention in connection with specific child abduction cases and systemic issues; (iii) members of the International Hague Network of Judges; and (iv) prospective attorneys pursuant to a request for legal assistance; and

ff. With respect to international adoption cases, records may be shared with: (i) Central authorities of, and bodies duly accredited in, State Parties to the Hague Intercountry Adoption Convention (IAA), and any other relevant competent authority that has jurisdiction and authority to make decision in matters of child welfare including adoption in a foreign State; (ii) organizations designated by the Department of State as Accrediting Entities in accordance with the IAA in connection with accreditation or approval or monitoring of adoption service providers; and (iii) adoption service providers in connection with the health, safety and welfare of participants in intercountry adoptions, diplomatic inquiries regarding compliance with the Hague Intercountry Adoption Convention and Complaint Registry related matters. This information may also be released on a need-to-know basis to other government agencies having statutory or other lawful authority to maintain such information.

The routine uses for Passport Records, STATE–26, apply to applications for passports and registration as U.S. citizens, Consular Reports of Birth Abroad, Certificates of Loss of Nationality of the United States, Reports of Death, and related documentation.

The Department of State periodically publishes in the **Federal Register** its Prefatory Statement of Routine Uses which applies to all of its Privacy Act systems of records. These standard routine uses apply to Overseas Citizens Services Records and Other Overseas Records, State–05.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, hard copy.

RETRIEVABILITY:

By individual name, birth date, or passport number, or other personal identifier if available.

SAFEGUARDS:

All users are given cyber security awareness training which covers the procedures for handling Sensitive but Unclassified information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Foreign Service and Civil Service employees and those Locally Engaged Staff who handle PII are required to take the FSI distance learning course instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Before being granted access to Overseas Citizen Services Records and Other Overseas Records, a user must first be granted access to the Department of State computer system.

Remote access to the Department of State network from non-Department owned systems is authorized only to unclassified systems and through a Department approved access program. Remote access to the network is configured with the Office of Management and Budget Memorandum M–07–16 security requirements which include but are not limited to two-factor authentication and time out function.

All Department of State employees and contractors with authorized access have undergone a thorough background security investigation. Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All paper records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

When it is determined that a user no longer needs access, the user account is disabled.

RETENTION AND DISPOSAL:

Records are retired in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA). More specific information may be obtained by writing to the Director; Office of Information Programs and Services, A/GIS/IPS; SA–2, Department of State; 515 22nd Street NW., Washington, DC 20522–8100.

SYSTEM MANAGER AND ADDRESS:

Deputy Assistant Secretary for Overseas Citizens Services; SA–17, 10th Floor, Washington, DC 20522–1710. At overseas locations, the onsite system manager is the Chief of the Consular Section or another State Department employee with responsibility for consular services as provided by the post in question.

NOTIFICATION PROCEDURES:

Individuals who have cause to believe that the Bureau of Consular Affairs may have records pertaining to him or her should write to the Director; Office of Information Programs and Services, A/GIS/IPS; SA–2, Department of State; 515 22nd Street NW., Washington, DC 20522–8100. The individual must specify that he/she wishes the records of the Bureau of Consular Affairs to be checked. At a minimum, the individual must include: name; date and place of birth; current mailing address and zip code; signature; and other information helpful in identifying the record.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who have cause to believe that the Bureau of Consular Affairs have records pertaining to him or her should write to the Director; Office of Information Programs and Services, A/GIS/IPS; SA–2, Department of State; 515 22nd Street NW., Washington, DC 20522–8100. The individual must specify that he or she wishes the records of the Bureau of Consular Affairs to be checked. At a minimum, the individual must include: name; date and place of birth; current mailing address and zip code; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Bureau of Consular Affairs has records pertaining to him or her. In accord with E.O. 9397, providing a Social Security number is optional, but may assist the Department in locating relevant records. [A request to search Overseas Citizens Services Records and Other Overseas Records, STATE–05, will be directed to contact the Passport Office, when it pertains to passport, registration, citizenship, birth or death records, and any records transferred from STATE–05 to STATE–26.] Individuals who wish to gain access to or to amend records pertaining to themselves should write to the Director, Office of Information Programs and Services (address above).

CONTESTING RECORD PROCEDURES:

(See above).

RECORD SOURCE CATEGORIES:

These records contain information that is primarily obtained from the individual who is the subject of the records. Information may also be obtained from federal, state, local and foreign government entities and nongovernmental authorities in accordance with a routine use.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), (k)(3), k(4), and (k)(5), certain records contained within this system of records may be exempt from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

[FR Doc. 2016–21645 Filed 9–7–16; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 9706]

Culturally Significant Objects Imported for Exhibition Determinations: "Glory of Venice: Masterworks of the Renaissance" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "Glory of Venice: Masterworks of the Renaissance," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Denver Art Museum, Denver, Colorado, from on or about October 2, 2016, until on or about February 12, 2017, at the North Carolina Museum of Art, Raleigh, North Carolina, from on or about March 4, 2017, until on or about June 18, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 29, 2016.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–21632 Filed 9–7–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9707]

Culturally Significant Objects Imported for Exhibition Determinations: "Paint the Revolution: Mexican Modernism, 1910–1950" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 257 of April 15, 2003, I hereby determine that the objects to be included in the exhibition "Paint the Revolution: Mexican Modernism, 1910–1950," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Philadelphia Museum of Art, Philadelphia, Pennsylvania, from on or about October 20, 2016, until on or about January 8, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 30, 2016.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–21630 Filed 9–7–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9705]

Culturally Significant Objects Imported for Exhibition Determinations: "Keir Collection of Art of the Islamic World" Exhibitions

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that objects to be included in multiple exhibitions of the Keir Collection of Art of the Islamic World, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Dallas Museum of Art, Dallas, Texas, and at possible additional exhibitions or venues yet to be determined, from on or about April 17, 2017, until on or about September 19, 2021, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the objects covered under this notice, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 30, 2016.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–21635 Filed 9–7–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9708]

Culturally Significant Objects Imported for Exhibition Determinations: "Hélio Oiticica: To Organize Delirium, 1944–1980" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "Hélio Oiticica: To Organize Delirium, 1944–1980," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Carnegie Museum of Art, Pittsburgh, Pennsylvania, from on or about October 1, 2016, until on or about January 2, 2017, at The Art Institute of Chicago, Chicago, Illinois, from on or about February 19, 2017, until on or about May 7, 2017, at the Whitney Museum of American Art, New York, New York, from on or about July 14, 2017, until on or about October 1, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 30, 2016.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–21627 Filed 9–7–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9704]

Culturally Significant Objects Imported for Exhibition Determinations: "Monet: The Early Years" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "Monet: The Early Years," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Kimbell Art Museum, Fort Worth, Texas, from on about October 16, 2016, until on or about January 29, 2017, at the Fine Arts Museums of San Francisco, Legion of Honor, San Francisco, California, from on or about February 25, 2017, until on or about May 29, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: August 26, 2016.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–21633 Filed 9–7–16; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36010]

Wheeling & Lake Erie Railway Company—Operation Exemption—Valley Line in Harrison and Jefferson Counties, Ohio

Wheeling & Lake Erie Railway Company (W&LE) a Class II rail carrier, has filed a verified notice of exemption under 49 CFR 1150.31 [1] to operate approximately 14.6 miles of trackage in Harrison and Jefferson Counties, Ohio consisting of two segments: (a) Between milepost 188.5 and milepost 189.1 near Unionvale and (b) between milepost 191.5 near Adena and milepost 205.54 near Warrenton. Both segments are part of a previously abandoned rail line known as the Valley Line.

In 1999, W&LE received exemption authority to abandon the Valley Line.[2] W&LE consummated its abandonment in 2003 but did not pursue salvage, and W&LE indicates that the trackage on the two segments for which an exemption is sought here has remained in place.[3]

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[1] W&LE states that, where an existing Class II carrier seeks to resume operations on a previously abandoned line, the transaction is appropriately considered under the expedited notice of exemption procedures of 49 CFR 1150.32–34 so long as the anticipated revenues of the subject rail line itself do not exceed those of a Class III rail carrier. *See Buffalo & Pittsburgh R.R.—Operation Exemption—Lucerne Branch in Pa.*, FD 31372 (ICC served Dec. 22, 1988). W&LE includes with its verified notice of exemption a certification pursuant to 49 CFR 1150.33(g) that the projected revenues of the Valley Line do not exceed those that would qualify a stand-alone operator of the Valley Line as a Class III rail carrier.

[2] *See Wheeling & Lake Erie Ry.—Aban. Exemption—in Harrison & Jefferson Ctys., Ohio,* AB 227 (Sub–No. 9X) (STB served Oct. 19, 1999).

[3] Originally, W&LE filed its verified notice seeking to operate the Valley Line all the way between milepost 188.5 and milepost 205.54. In an August 23, 2016 amendment, however, the applicant excludes from its verified notice approximately 2.4 miles of trackage (between milepost 189.1 near Unionvale and milepost 191.5 near Adena) on which certain rail assets have been removed. W&LE states that it will seek appropriate authority from the Board at such time as the applicant may seek to resume operations on that segment.

With the current transaction, W&LE seeks to resume its common carrier status on the two segments of the Valley Line.

W&LE states that its proposed operations do not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

W&LE states that its current annual rail revenues exceed $5 million. It notes, however, that the Board has held that the advance notice requirement of 49 CFR 1150.32(e) is inapplicable to the proposed resumption of operations over a previously abandoned line. *See R.J. Corman R.R./Memphis Line—Operation Exemption—Line in Montgomery & Stewart Ctys., Tenn.*, FD 33841 (STB served Jan. 18, 2000).

The transaction may be consummated on or after September 22, 2016, the effective date of the exemption (30 days after the verified notice of exemption was filed).[4]

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 15, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36010, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on applicant's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

According to W&LE, this action is exempt from environmental reporting requirements under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV.*"

Decided: September 2, 2016.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2016–21623 Filed 9–7–16; 8:45 am]

BILLING CODE 4915–01–P

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[4] Because the verified notice was supplemented on August 23, 2016, that date will be considered the filed date of the verified notice.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Airport Property; Southwest Florida International Airport, Fort Myers, FL.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release approximately 0.521 acres of airport property at the Southwest Florida International Airport, Fort Myers, FL, from the terms, conditions, reservations, and restrictions as contained in federal grant assurances. The release of property will allow Lee County Port Authority to dispose of the property for other than aeronautical purposes. The property is located on Treeline Avenue along its proposed intersection with the extension of Jetport Loop, Fort Myers, Florida. The parcel is currently designated as aeronautical land use. The property will be released of its federal obligations for roadway access/right-of-way purposes. The fair market value of these parcels has been determined to be $170,000.

DATES: Comments are due on or before *October 11, 2016*.

ADDRESSES: Documents are available for review at Lee County Port Authority, 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida 33913; and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Marisol C. Elliott, Community Planner, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024. Documents reflecting the Sponsor's request are available for inspection by appointment only at the Lee County Port Authority and by contacting the FAA at the address listed above.

FOR FURTHER INFORMATION CONTACT: Marisol C. Elliott, Community Planner, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

Issued in Orlando, Florida, on August 31, 2016.

Bart Vernace,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2016–21558 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), National Marine Fisheries Service (NMFS), and United States Fish and Wildlife Service (USFWS), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, NMFS, and USFWS that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed Local Agency (off-highway) project funded under the Highway Bridge Program (HBP), that proposes a bridge replacement located along Davis Road between Blanco Road to Reservation Road, in the County of Monterey, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before February 6, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: *For Caltrans:* Randell LaVack; Environmental Branch Chief; Caltrans District #5; 50 Higuera Street; San Luis Obispo, CA 93401; 8 a.m.–5 p.m.; (805) 549–3182; *Randy.lavack@dot.ca.gov*.

For NMFS: William W. Steele, Jr.; Regional Administrator; National Oceanic and Atmospheric Administration-West Coast Region; 777 Sonoma Avenue, Room 325; Santa Rosa, CA 95404; 8 a.m.–5 p.m.; (707) 575–6066; *Will.Steele@noaa.gov*.

For USFWS: Mark Ogonowski; Biologist; Ventura Fish and Wildlife Service Office; 2493 Portola Road, Suite

B, Ventura, CA 93003; 8 a.m.–5 p.m.; (805) 644–1766; *mark_ogonowski@fws.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and the Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, NMFS and USFWS have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The Project proposes replacing the existing two-lane, low-level Davis Road Bridge (#44C–0068) over the Salinas River with a longer bridge that meets current standards. The existing bridge is located approximately 2 miles south of the City of Salinas in Monterey County. In addition, the project will widen Davis Road from two lanes to four lanes for a distance of approximately 2.1 miles. Federal Project Number BRLS–5944 (068).

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (EA) for the project, approved on August 1, 2016, in the Caltrans' Finding of No Significant Impact (FONSI) issued on June 22, 2016, and in other documents in the FHWA project records. The EA, FONSI, and other project records are available by contacting Caltrans at the address provided above. The Caltrans EA and FONSI can be viewed and downloaded from the project Web site at *https://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/public-works/project-announcements-notices* or viewed at public libraries in the project area.

The NMFS concurs that the proposed action is not likely to adversely affect Steelhead or critical habitat; permit #WCR–2016–4333 is available by contacting NMFS at the address provided above.

The USFWS, concurred that the proposed Project may affect, but is not likely to adversely affect, the California tiger salamander and concurred the use of the Caltrans Programmatic Biological Opinion for California Red-Legged Frog; permit #08EVEN00–2016–F–0255 is available by contacting USFWS at the address provided above. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4335].

2. *Air:* Clean Air Act [23 U.S.C.109 (j) and 42 U.S.C. 7521(a)].

3. *Historic and Cultural Resources:* National Historic Preservation Act of 1966, as amended (NHPA), [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(11)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

4. *Wildlife:* Federal Endangered Species Act [16 U.S.C. 1531–1543]; Fish and Wildlife Coordination Act [16 U.S.C. 661–666(C); Migratory Bird Treaty Act [16 U.S.C. 760c–760g].

5. *Social and Economic:* NEPA implementation [23 U.S.C. 109(h)]; Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

6. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1344].

7. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 13112 Invasive Species; E.O. 11988 Floodplain Management; E.O. 12898 Federal actions to address Environmental Justice in Minority Populations and Low Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: August 31, 2016.

Cesar Perez,

Acting North Team Leader, Project Delivery, Federal Highway Administration, Sacramento, California.

[FR Doc. 2016–21600 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), National Marine Fisheries Service (NMFS), and United States Fish and Wildlife Service (USFWS), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, NMFS, and USFWS that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed Local Agency (off-highway) project funded under the Highway Bridge Program (HBP), that proposes a bridge replacement located along Davis Road between Blanco Road to Reservation Road, in the County of Monterey, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before February 6, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Randell LaVack; Environmental Branch Chief; Caltrans District #5; 50 Higuera Street; San Luis Obispo, CA 93401; 8 a.m.–5 p.m.; (805) 549– 3182; *Randy.lavack@dot.ca.gov.*

For NMFS: William W. Steele, Jr.; Regional Administrator; National Oceanic and Atmospheric Administration-West Coast Region; 777 Sonoma Avenue, Room 325; Santa Rosa, CA 95404; 8 a.m.–5 p.m.; (707) 575–6066; *Will.Steele@noaa.gov.*

For USFWS: Mark Ogonowski; Biologist; Ventura Fish and Wildlife Service Office; 2493 Portola Road, Suite B, Ventura CA, 93003; 8 a.m.–5 p.m.; (805) 644–1766; *mark_ogonowski@fws.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and the Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, NMFS and USFWS have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The Project proposes replacing the existing two-lane, low-level Davis Road Bridge (#44C–0068) over the Salinas River with a longer bridge that meets current standards. The existing bridge is located approximately 2 miles south of the City of Salinas in Monterey County. In addition, the project will widen Davis Road from two lanes to four lanes for a distance of approximately 2.1 miles. Federal Project Number BRLS–5944 (068).

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (EA) for the project, approved on August 1, 2016, in the Caltrans' Finding of No Significant Impact (FONSI) issued on June 22, 2016, and in other documents in the FHWA project records. The EA, FONSI, and other project records are available by contacting Caltrans at the address provided above. The Caltrans EA and FONSI can be viewed and downloaded from the project Web site at *https://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/public-works/project-announcements-notices* or viewed at public libraries in the project area.

The NMFS concurs that the proposed action is not likely to adversely affect Steelhead or critical habitat; permit # WCR–2016–4333 is available by contacting NMFS at the address provided above.

The USFWS, concurred that the proposed Project may affect, but is not likely to adversely affect, the California tiger salamander and concurred the use of the Caltrans Programmatic Biological Opinion for California Red-Legged Frog; permit #08EVEN00–2016–F–0255 is available by contacting USFWS at the address provided above. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4335].

2. *Air:* Clean Air Act [23 U.S.C. 109 (j) and 42 U.S.C. 7521(a)].

3. *Historic and Cultural Resources:* National Historic Preservation Act of 1966, as amended (NHPA), [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(11)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

4. *Wildlife:* Federal Endangered Species Act [16 U.S.C. 1531–1543]; Fish and Wildlife Coordination Act [16 U.S.C. 661–666(C); Migratory Bird Treaty Act [16 U.S.C. 760c–760g].

5. *Social and Economic:* NEPA implementation [23 U.S.C. 109(h)]; Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

6. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1344].

7. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 13112 Invasive Species; E.O. 11988 Floodplain Management; E.O. 12898 Federal actions to address Environmental Justice in Minority Populations and Low Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: August 31, 2016.

Cesar Perez,

Acting North Team Leader, Project Delivery, Federal Highway Administration, Sacramento, California.

[FR Doc. 2016–21601 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327, and other Federal agencies: The U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and National Marine Fisheries Service.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, State Route 1 Gleason Beach Roadway Realignment Project, District 04–SON–1 p.m. 15.1/15.7 located between Bodega Bay and Jenner in the County of Sonoma, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before February 6, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: California Department of Transportation, Attn: Wahida Rashid, Environmental Branch Chief, Office of Environmental Analysis, MS–8B, 111 Grand Avenue, Oakland, CA 94612, (510) 286–5935, *wahida.rashid@dot.ca.gov, Normal Office Hours:* 9–5, M–F.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans, has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: State Route 1 (SR 1) Gleason Beach Roadway Realignment Project: Caltrans proposes to realign SR 1 at Gleason Beach in Sonoma County to maintain SR 1, which has been damaged by multiple erosive forces including severe storms in 1996 and later years. The project would construct a two-lane roadway and a bridge spanning Scotty Creek along a new alignment eastward and inland of the current alignment between post miles (PMs) 15.1 and 15.7 of SR 1 in Sonoma County, CA. The purpose of this project is to protect SR 1 from coastal erosion while maintaining SR 1's long-term regional and local connectivity for the surrounding communities. The environmental effects of the Gleason Beach Project are evaluated and described in the Final Environmental Impact Report (EIR)/Environmental Assessment (EA), a joint document pursuant to the California Environmental Quality Act and the National Environmental Policy Act. Key issues identified in the Final EIR/EA include impacts to biological resources, aquatic (wetland) resources, water quality and storm water runoff, geology/seismicity, paleontology, cultural resources, visual/aesthetics, residential acquisition, and temporary construction effects. Measures to avoid, minimize, and mitigate adverse environmental effects are included in the Environmental Commitments Record in the Final EIR/EA. The Final EIR/EA identified Alternative 19A as the preferred alternative and Caltrans has determined that Alternative 19A will have no significant impacts on the human environment. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final EIR/EA for the project, approved on June 30, 2016, and in the Caltrans Finding of No Significant Impact (FONSI) also issued on June 30, 2016, and in other documents in the Caltrans project records. The Final EIR/EA, FONSI, and other project records are available by contacting Caltrans at the address provided above. The Caltrans FEIR/EA and FONSI can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/dist4/envdocs.html*, or viewed at public libraries in the project area (Sonoma County).

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351 *et seq.*).

2. Council on Environmental Quality Regulations.

3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109.

4. MAP–21, the Moving Ahead for Progress in the 21st Century Act.

5. Clean Air Act (42 U.S.C. 7401–7671(q)).

6. Migratory Bird Treaty Act (16 U.S.C. 703–712).

7. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470(f) *et seq.*).

8. Clean Water Act (Section 401) (33 U.S.C. 1251–1377) of 1977 and 1987 (Federal Water Pollution Control Act of 1972).

9. Federal Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

10. Fish and Wildlife Coordination Act of 1934, as amended.

11. Noise Control Act of 1972.

12. Safe Drinking Water Act of 1944, as amended.

13. Executive Order 11990—Protection of Wetlands

14. Executive Order 11988—Floodplain Management

15. Executive Order 13112, Invasive Species.

16. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

17. Title VI of the Civil Rights Act of 1964, as amended.

18. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: August 31, 2016.

Matt Schmitz,

Director, Project Delivery, Federal Highway Administration, Sacramento, California.

[FR Doc. 2016–21599 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0092]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel 14 PENNIES; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 11, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0092. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel 14 PENNIES is:

Intended Commercial Use of Vessel: "certified small passenger vessel (SPV) service on a Coastwise route with 12 passengers."

Geographic Region: "Florida."

The complete application is given in DOT docket MARAD–2016–0092 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: August 29, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–21556 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0091]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PERSISTENCE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 11, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0091. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PERSISTENCE is:

Intended Commercial Use of Vessel: "pleasure sailing charters, sailing training classes, and casual or elegant events on the water, with occasional sport fishing for personal consumption (not to be sold commercially".

Geographic Region: "Maryland, Virginia, Florida"

The complete application is given in DOT docket MARAD–2016–0091 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: August 29, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–21557 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0093]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GRIFFIN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 11, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0093. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GRIFFIN is:

Intended Commercial Use of Vessel: "OUPV Sailing Charter 6 passengers or less."

Geographic Region: "Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas."

The complete application is given in DOT docket MARAD–2016–0093 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: August 29, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–21559 Filed 9–7–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Orders 13660, 13661, 13662, and 13685.

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of one hundred thirty-three persons whose property and interests in property are blocked pursuant to one or more of the following authorities: Executive Order (E.O.) 13660, E.O. 13661, and E.O. 13685, or who are subject to the prohibitions of one or more directives under E.O. 13662.

DATES: OFAC's actions described in this notice were effective on September 1, 2016, as further specified below.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treas.gov/ofac*). A complete listing of persons determined to be subject to one or more directives under E.O. 13662, as discussed in detail in this Notice, can be found in the Sectoral Sanctions Identifications List at *http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/ssi_list.aspx.*

Notice of OFAC Actions

On September 1, 2016, OFAC blocked the property and interests in property of the following persons pursuant to E.O. 13660, "Blocking Property of Certain Persons Contributing to the Situation in Ukraine":

Individuals

1. ANYUKHINA, Anna Vladimirovna; DOB 14 Jan 1985; POB Naidyonovka, Crimean Oblast, Ukraine (individual) [UKRAINE–E.O. 13660].

2. BORODULINA, Svetlana Alekseevna; DOB 20 Dec 1973; POB Moscow, Russia (individual) [UKRAINE–E.O. 13660].

3. DEMIDOV, Valentin Valentinovich (a.k.a. DEMYDOV, Valentyn); DOB 28 Nov 1976; POB Petrovsky-Dobrinsky Region, Lipestkoy Oblast, Ukraine (individual) [UKRAINE–E.O. 13660].

4. KIVIKO, Irina Valerievna; DOB 05 Sep 1970 (individual) [UKRAINE–E.O. 13660].

5. MURADOV, Georgiy L'vovich; DOB 19 Nov 1954; POB Kochmes, Komi, Russia (individual) [UKRAINE–E.O. 13660].

6. NAZAROV, Mikhail Anatolievich; DOB 1965 (individual) [UKRAINE–E.O. 13660].

7. PALAGIN, Viktor Nikolayevich; DOB 02 Dec 1956 (individual) [UKRAINE–E.O. 13660].

8. POLONSKY, Dmitry Anatolievich; DOB 02 Aug 1981; POB Simferopol, Ukraine (individual) [UKRAINE–E.O. 13660].

9. SHAPOVALOV, Oleg Georgievich; DOB 17 Jul 1959; POB Nikopol, Dnepropetrovsk Oblast, Ukraine (individual) [UKRAINE–E.O. 13660].

10. SHEREMET, Mikhail Sergeyevich; DOB 23 May 1971; POB Dzhankoy, Ukraine (individual) [UKRAINE–E.O. 13660].

11. VASYUTA, Andrey Gennadievich; DOB 07 Mar 1965; POB Simferopol, Ukraine (individual) [UKRAINE–E.O. 13660].

12. BASURIN, Eduard (a.k.a. BASURIN, Eduard Aleksandrovich); DOB 27 Jun 1966; POB Donetsk, Ukraine (individual) [UKRAINE–E.O. 13660].

13. ISMAILOV, Zaur; DOB 25 Jul 1975; alt. DOB 25 Jul 1978; POB Krasny Luch, Voroshilovgrad, Ukraine (individual) [UKRAINE–E.O. 13660].

14. KONONOV, Vladimir (a.k.a. KONONOV, Vladimir P.; a.k.a. KONONOV, Vladimir Petrovich; a.k.a. KONONOV, Volodimir); DOB 14 Oct 1974 (individual) [UKRAINE–E.O. 13660].

15. MANUILOV, Evgeny (a.k.a. MANUILOV, Evgeny Vladimirovich; a.k.a. MANUILOV, Yevgeny); DOB 05 Jan 1967 (individual) [UKRAINE–E.O. 13660].

16. SHUBIN, Alexandr (a.k.a. SHUBIN, Aleksandr; a.k.a. SHUBIN, Alexandr Vasilievich); DOB 20 May 1972; POB Luhansk, Ukraine (individual) [UKRAINE–E.O. 13660].

17. YATSENKO, Viktor (a.k.a. YATSENKO, Victor V.; a.k.a. YATSENKO, Victor Vyacheslavovich); DOB 22 Apr 1985 (individual) [UKRAINE–E.O. 13660].

Entity

1. SALVATION COMMITTEE OF UKRAINE (a.k.a. COMMITTEE FOR THE RESCUE OF UKRAINE; a.k.a. SAVIOR OF UKRAINE COMMITTEE; a.k.a. UKRAINE SALVATION COMMITTEE), Russia; Web site *http://comitet.su/about/;* Email Address *comitet@comitet.su;* alt. Email Address *komitet_2015@yahoo.com* [UKRAINE–E.O. 13660] (Linked To: AZAROV, Mykola Yanovych).

On September 1, 2016, OFAC blocked the property and interests in property of the following person pursuant to E.O. 13661, "Blocking Property of Additional Persons Contributing to the Situation in Ukraine":

Entity

1. CJSC ABR MANAGEMENT (a.k.a. ABR MANAGEMENT CJSC; a.k.a. ZAKRYTOE AKTSIONERNOE OBSHCHESTVO ABR MANAGEMENT; a.k.a. "ABR"), 2 Liter A, Rastrelli Sq, St. Petersburg 191124, Russia; Ulitsa Graftio, Dom 7, Liter A, St. Petersburg 197022, Russia [UKRAINE–E.O. 13661] (Linked To: BANK ROSSIYA).

On September 1, 2016, OFAC published the following revised information for the following person on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) whose property and interests in property are blocked pursuant to E.O. 13661, "Blocking Property of Additional Persons Contributing to the Situation in Ukraine":

Entity

1. BANK ROSSIYA (a.k.a. AB ROSSIYA, OAO; f.k.a. AKTSIONERNY BANK RUSSIAN FEDERATION; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO AKTSIONERNY BANK ROSSIYA), 2 Liter A Pl. Rastrelli, Saint Petersburg 191124, Russia; SWIFT/BIC ROSY RU 2P; Web site *www.abr.ru;* Email Address *bank@abr.ru;* Registration ID 1027800000084 (Russia); Tax ID No. 7831000122 (Russia); Government Gazette Number 09804148 (Russia) [UKRAINE–E.O. 13661].

On September 1, 2016, OFAC blocked the property and interests in property of the following persons pursuant to E.O. 13685, "Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to the Crimea Region of Ukraine":

Entities

1. CJSC SOVMORTRANS (a.k.a. SOVMORTRANS CJSC), Rakhmanovskiy lane, 4, bld.1, Morskoy House, Moscow 127994, Russia; Email Address *smt@sovmortrans.com* [UKRAINE–E.O. 13685].

2. LLC KOKSOKHIMTRANS (a.k.a. KOKSOKHIMTRANS LTD.), Rakhmanovskiy lane, 4, bld.1, Morskoy House, Moscow 127994, Russia [UKRAINE–E.O. 13685].

3. OJSC SOVFRACHT (a.k.a. PJSC 'SOVFRACHT'; a.k.a. SOVFRACHT JSC; a.k.a. SOVFRAKHT), Rakhmanovskiy lane, 4, bld.1, Morskoy House, Moscow 127994, Russia; Email Address *general@sovfracht.ru* [UKRAINE–E.O. 13685].

4. SMT–K (a.k.a. KRYM SMT OOO LLC; a.k.a. LLC CMT CRIMEA; a.k.a. OOO 'CMT–K'; a.k.a. OOO 'SMT–K';

a.k.a. SMT–CRIMEA; a.k.a. SOVMORTRANS–CRIMEA), ul. Zoi Zhiltsovoy, d. 15, office 51, Simferopol, Crimea, Ukraine; Vokzalnoye Highway 140, Kerch, Ukraine; Anapskoye Highway 1, Temryuk, Russia; Email Address *info@smt-k.ru;* alt. Email Address *info@parom-k.ru* [UKRAINE–E.O. 13685].

5. SOVFRACHT MANAGING COMPANY LLC (a.k.a. LLC SOVFRACHT MANAGEMENT COMPANY; a.k.a. MANAGEMENT COMPANY SOVFRAKHT LTD; a.k.a. SOVFRACHT MANAGEMENT COMPANY; a.k.a. SOVFRACHT MANAGEMENT COMPANY LLC), Dobroslobodskaya, 3 BC Basmanov, Moscow 105066, Russia; Email Address *general@sovfracht.ru* [UKRAINE–E.O. 13685].

6. SOVFRACHT–SOVMORTRANS GROUP (a.k.a. SOVFRACHT–SOVMORTRANS; a.k.a. SOVFRAKHT–SOVMORTRANS), Rakhmanovskiy lane, 4, bld.1, Morskoy House, Moscow 127994, Russia; Dobroslobodskaya, 3 BC Basmanov, Moscow 105066, Russia [UKRAINE–E.O. 13685].

7. PJSC MOSTOTREST (a.k.a. MOSTOTREST; a.k.a. MOSTOTREST, PAO; a.k.a. OPEN JOINT STOCK COMPANY 'MOSTOTREST'; a.k.a. PUBLIC JOINT STOCK COMPANY MOSTOTREST), 6 Barklaya str., bld. 5, Moscow 121087, Russia; d. 6 str. 5, ul. Barklaya, Moscow 121087, Russia; Web site *www.mostro.ru;* Email Address *pressa@mostro.ru;* MICEX Code MSTT; Registration ID 1027739167246 (Russia); Tax ID No. 7701045732 (Russia); Identification Number ISIN: RU0009177331; Government Gazette Number 01386148 (Russia) [UKRAINE–E.O. 13685].

8. SGM MOST OOO (f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU SGM MOST; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'SGM–MOST'; a.k.a. SGM–BRIDGE; a.k.a. SGM–MOST LLC), d. 10 korp. 3 ul. Neverovskogo, Moscow 121170, Russia; Registration ID 1157746088170 (Russia); Tax ID No. 7730018980 (Russia); Government Gazette Number 29170220 (Russia) [UKRAINE–E.O. 13685].

9. FEDERAL SUE SHIPYARD 'MORYE' (a.k.a. FEDERAL STATE UNITARY ENTERPRISE SZ MORYE; a.k.a. FSUE SZ 'MORYE'; a.k.a. MORYE SHIPYARD; a.k.a. "MORE SHIPYARD"), 1 Desantnikov Street, Feodosia, Crimea 98176, Ukraine; Web site *http://moreship.ru/;* Email Address *office@moreship.ru* [UKRAINE–E.O. 13685].

10. OAO 'URANIS–RADIOSISTEMY' (a.k.a. OJSC 'URANIS RADIO SYSTEMS'; a.k.a. OJSC URANIS–RADIOSISTEMY; a.k.a. URANIS–RADIOSISTEMY OAO), 33 G, Vakulenchuk Street, Sevastopol, Crimea 99053, Ukraine; Web site *www.uranis.net;* Email Address *uranis@uranis.net;* alt. Email Address *info@uranis.net;* alt. Email Address *vlad_k@uranis.net;* Registration ID 1149204003233; Tax ID No. 9201001120 [UKRAINE–E.O. 13685].

11. OAO SHIP REPAIR CENTER 'ZVEZDOCHKA' (a.k.a. 'ZVEZDOCHKA' SHIPYARD; a.k.a. AO SHIP REPAIR CENTER 'ZVEZDOCHKA'; a.k.a. JOINT STOCK COMPANY SHIP REPAIR CENTER 'ZVEZDOCHKA'; a.k.a. SHIP REPAIR CENTER ZVEZDOCHKA), 12, proyezd Mashinostroiteley, Severodvinsk, Arkhangelskaya Oblast 164509, Russia; 13 Geroyev Sevastopolya Street, Sevastopol, Crimea 99001, Ukraine; Web site *www.star.ru;* alt. Web site *http://starsmz.ru/;* alt. Web site *http://sevmorzavod.com/;* Email Address *info@star.ru;* alt. Email Address *star_sev@mail.ru;* alt. Email Address *office@smp.com.ua;* Registration ID 1082902002677 (Russia); Tax ID No. 2902060361 (Russia) [UKRAINE–E.O. 13685].

12. OOO SHIPYARD 'ZALIV' (f.k.a. AO SHIPYARD 'ZALIV'; f.k.a. JSC SHIPYARD 'ZALIV'; f.k.a. JSC ZALIV SHIPYARD; a.k.a. LLC SHIPYARD 'ZALIV'; f.k.a. OJSC ZALIV SHIPYARD; a.k.a. ZALIV SHIPYARD LLC), 4 Tankistov Street, Kerch, Crimea 98310, Ukraine; Web site *http://www.zalivkerch.com/;* alt. Web site *http://www.zaliv.com/;* Email Address *zaliv@zalivkerch.com* [UKRAINE–E.O. 13685].

13. SUE RC 'FEODOSIA OPTICAL PLANT' (a.k.a. FE.O. DOSIA STATE OPTICAL PLANT; a.k.a. STATE OPTICAL PLANT—FE.O. DOSIA), Feodosia State Optical Plant, 11 Moskovskaya Street, Feodosia, Crimea 98100, Ukraine; Web site *http://www.fkoz.feodosia.com.ua/;* Email Address *optic_plant_sbut@bk.ru* [UKRAINE–E.O. 13685].

14. FAU 'GLAVGOSEKSPERTIZA ROSSII' (a.k.a. FEDERAL AUTONOMOUS INSTITUTION 'MAIN DIRECTORATE OF STATE EXAMINATION'; a.k.a. GENERAL BOARD OF STATE EXPERT REVIEW; a.k.a. GLAVGOSEKSPERTIZA), Furkasovskiy Lane, building 6, Moscow 101000, Russia; 13 Demidova Street, Sevastopol, Crimea, Ukraine; 10 Vokzalnaya Street, Sevastopol, Crimea, Ukraine; Web site *http://gge.ru;* Email Address *info@gge.ru* [UKRAINE–E.O. 13685].

15. FKU UPRDOR 'TAMAN' (a.k.a. FEDERAL STATE INSTITUTION MANAGEMENT OF FEDERAL ROADS 'TAMAN'), 3 Revolution Avenue, Anapa, Krasnodar 353440, Russia; Web site *http://fkutaman.ru/;* Email Address *office@fkutaman.ru* [UKRAINE–E.O. 13685].

16. AO 'INSTITUTE GIPROSTROYMOST—SAINT-PETERSBURG' (a.k.a. AO 'INSTITUTE GIPROSTROYMOST—SANKT-PETERBURG'; f.k.a. INSTITUT GIPROSTROIMOST—SANKT-PETERBURG, ZAO; a.k.a. JSC 'INSTITUTE GIPROSTROYMOST—SAINT-PETERSBURG'; a.k.a. JSC 'INSTITUTE GIPROSTROYMOST—SANKT-PETERBURG'; f.k.a. ZAO 'INSTITUTE GIPROSTROYMOST—SAINT-PETERSBURG'), 7 Yablochkova Street, St. Petersburg 197198, Russia; Web site *www.gpsm.ru;* Email Address *office@gpsm.ru;* Registration ID 1037828021660 (Russia); Tax ID No. 7826717210 (Russia); Government Gazette Number 53289443 (Russia) [UKRAINE–E.O. 13685].

17. OOO 'DSK' (a.k.a. OOO 'DOROZHNAYA STROITELNAYA KOMPANIA'), Stroitelnaya Street, 34, village of Kesova Gora, Tver Oblast 171470, Russia; Web site *http://dorstroycom.ru;* Email Address *dsk@dorstroycom.ru;* alt. Email Address *secretar@dorstroycom.ru;* Registration ID 1036906000922 (Russia) [UKRAINE–E.O. 13685].

18. OOO 'STG–EKO' (a.k.a. 'STG–EKO' LLC), Street Zastavskaya Building 22, Part A, Saint Petersburg 196084, Russia; Web site *http://www.stg-eco.ru/;* Email Address *info@stg-eco.ru;* alt. Email Address *info.rb@stg-eco.ru;* Registration ID 1097847009215 (Russia); Tax ID No. 7816458415 (Russia) [UKRAINE–E.O. 13685].

On September 1, 2016, OFAC determined that the Bank of Moscow owns, directly or indirectly, a 50 percent or greater interest in the following persons. As such, these persons are subject to the prohibitions of Directive 1 (as amended) of September 12, 2014, issued pursuant to E.O. 13662, "Blocking Property of Additional Persons Contributing to the Situation in Ukraine" and 31 CFR 589.406 and 589.802, and following the Secretary of the Treasury's determination pursuant to section l(a)(i) of E.O. 13662 with respect to the financial services sector of the Russian Federation economy.

Entities

1. AUTOMATED BANKING TECHNOLOGIES CJSC (a.k.a. CJSC 'AUTOMATED BANKING TECHNOLOGIES'; a.k.a. JOINT STOCK COMPANY

'AVTOMATIZIROVANNYYEE BANKOVSKIYE TEKHNOLOGII'; a.k.a. ZAO 'AVTOMATIZIROVANNIY BANKOVSKIY TECHNOLOGII'), Street Pushechnaya, D. 5, G., Moscow 107031, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Tax ID No. 7702026595 (Russia); For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

2. BM BANK PUBLIC JOINT STOCK COMPANY (f.k.a. BM BANK LLC; a.k.a. BMBANK JSC; a.k.a. PUBLICHNOYE JOINT–STOCK COMPANY 'BM BANK'; a.k.a. "LLC BM BANK"), 37/122 T. Shevchenko bld, Kyiv 01032, Ukraine; SWIFT/BIC BMLT UA UK; Web site *http://www.bmbank.com.ua;* Email Address *bank@bmbank.com.ua;* Executive Order 13662 Directive Determination—Subject to Directive 1; All offices worldwide; for more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

3. BM HOLDING AG (a.k.a. BM HOLDING LTD; a.k.a. BM HOLDING SA), C/O Treureva AG, Muhlebachstrasse 23, Zurich 8024, Switzerland; Chamerstrasse 172, P.O. Box, Zug CH–6300, Switzerland; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

4. BM PROEKT, OOO (a.k.a. BM PROJECT LLC; a.k.a. LIMITED LIABILITY COMPANY 'BM PROYEKT'; a.k.a. OBSHCHESTVO S ORGRANICHENNOI OTVETSTVENNOSTYU 'BM PROEKT'; a.k.a. OOO BM PROECKT; a.k.a. "LLC BM PROJECT"), 8/15, str. 3 ul. Rozhdestvenka, Moscow 107996, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 5117746015624 (Russia); Tax ID No. 7702777873 (Russia); Government Gazette Number 37319127 (Russia); For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

5. BM–DIREKTSIYA, OOO (a.k.a. BM DIREKTSIYA LLC; a.k.a. LIMITED LIABILITY COMPANY 'BM–DIREKTSIYA'; a.k.a. OBSHCHESTVO S ORGANICHENNOI OTVETSTVENNOSTYU 'BM–DIREKTSIYA'; a.k.a. OOO 'BM–DIREKTSIYA'), 8/15 str. 3 ul. Rozhdestvenka, Moscow 107996, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1117746628185; Tax ID No. 7702768727; Government Gazette Number 30162881; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

6. BOM ASSET MANAGEMENT LTD, Arc. Makariou 2–4, Capital center, 9th floor, index 1065, Nicosia, Cyprus; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

7. BOM FINANCE LTD, 2nd Floor Vanterpool Plaza, Wickhams Cay 1, Road Town, Virgin Islands, British; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

8. BOM PROJECT FINANCING LTD (a.k.a. BOM PROJECT FINANCING LIMITED), 14th Floor, Papachristoforu Building, 32 Kritis Street, Limassol, Cyprus; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

9. BPO PECHATNIKI, OAO (a.k.a. OPEN JOINT STOCK COMPANY 'BUMAZHNO–POLIGRAFICHESKOYE OBYEDINENIYE 'PECHATNIKI'; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO 'BUMAZHNO–POLIGRAFICHESKOE OBEDINENIE 'PECHATNIKI'), d. 53, ul. Ryabinovaya, Moscow 121471, Russia; D. 4, Brodnikov Per., Moscow 119180, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1087746844240; Tax ID No. 7706694089; Government Gazette Number 87562873; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

10. CROSSPLANET LTD, 196/Themistokli Dervi, 3 Julia House, Nicosia 1066, Cyprus; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

11. EESTI KREDIIDIPANK AS (a.k.a. AS EESTI KREDIIDIPANK; a.k.a. ESTONIAN CREDIT BANK; a.k.a. JOINT–STOCK COMPANY EESTI KREDIDIPANK), Narve Road 4, Tallinn 15014, Estonia; SWIFT/BIC EKRD EE 22; Web site *http://www.krediidipank.ee;* Executive Order 13662 Directive Determination—Subject to Directive 1; All offices worldwide; for more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

12. FINANSOVY ASSISTENT CJSC (a.k.a. CJSC 'FINANSOVY ASSISTANT'; a.k.a. ZAO 'FINANSOVY ASSISTANT'), d. 4/10 str. 1 ul. Sadovaya-Triumphalnaya, Moscow, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

13. LESPROMPROTSESSING, ZAO (a.k.a. CJSC LESPROMPROCESSING; a.k.a. CLOSED JOINT–STOCK COMPANY 'LESPROMPROCESSING'; a.k.a. LESPROMPROCESSING CJSC; f.k.a. LIKVIDATSIONNAYA KOMISSIYA ZAO 'LESPROMPROTSESSING' (RESHENIE O LIKVIDATSII I O LIKVIDATORE)), d. 13 str. 2 per. Bolshoi Sukharevski, Moscow 127051, Russia; B. Sucharevsky per, 13 str. 2, 21, Moscow, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1;

Registration ID 1077764064905 (Russia); Government Gazette Number 84130506; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

14. LLC BALTECH (a.k.a. BALTECH LLC; a.k.a. OOO 'BALTECH'), Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

15. MEZHDUNARODNAYA UPRAVLYAYUSHCHAYA KOMPANIYA, AO (f.k.a. AKTSIONERNOE OBSHCHESTVO MEZHDUNARODNAYA UPRAVLYAYUSHCHAYA KOMPANIYA; a.k.a. AKTSIONERNOE OBSHCHESTVO 'MEZHDUNARODNAYA UPRAVLYAYUSHCHAYA KOMPANIYA'; a.k.a. INTERNATIONAL MANAGEMENT COMPANY OJSC; a.k.a. JOINT STOCK COMPANY 'MEZHDUNARODNAYA UPRAVLYAYUSHCHAYA KOMPANIYA'; a.k.a. OJSC INTERNATIONAL MANAGEMENT COMPANY), d. 13/2 ul. Begovaya, Moscow 125284, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1027714019772 (Russia); Tax ID No. 7714283773 (Russia); Government Gazette Number 59709936 (Russia); For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

16. OPEN JOINT STOCK COMPANY CHAYKA (a.k.a. CHAIKA OJSC; a.k.a. OAO CHAIKA; a.k.a. PJSC CHAIKA), Russia; Turchaninov Per., D. 3, BLDG 1, G., Moscow 119034, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Tax ID No. 7704021200 (Russia); For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

17. RIELTSITI, OOO (a.k.a. LIMITED LIABILITY COMPANY 'RIELTSITI'; a.k.a. OBSHCHESTVO S GRANICHENNOI OTVETSTVENNOSTYU 'RIELTSITI'; a.k.a. OOO 'REALTCITY'; a.k.a. "REALTCITY LLC"; a.k.a. "REALT–CITY LLC"), d. 9, str. 5 ul. Krasnoproletarskaya, Moscow 127030, Russia; Per Uglovoy, D. 2, ETAZH 10, Room 22, Room 3, Moscow 127055, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1127746617008 (Russia); Tax ID No. 7707782490; Government Gazette Number 11365058; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

18. SG MSK, AO (a.k.a. AKTSIONERNOE OBSHCHESTVO 'STRAKHOVAYA GRUPPA MSK'; a.k.a. OAO 'STRACHOVAIYA GRUPPA MSK'; a.k.a. OPEN JOINT STOK COMPANY 'INSURANCE GROUP MCK'; a.k.a. PJSC 'INSURANCE GROUP MSK'), d. 40, ul. Dolgorukovskaya, Moscow 127006, Russia; Web site *http://sgmsk.ru/about/raskrytie-informacii/oao-sg-msk;* Email Address *root@oasopsk.kazan.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1021602843470 (Russia); Tax ID No. 1655006421 (Russia); Government Gazette Number 23333017 (Russia); For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

19. UNITED COMPANY OJSC (a.k.a. OAO 'OBIDINENAIYA KOMANIYA'; a.k.a. OJSC UNITED COMPANY; a.k.a. PJSC 'UNITED COMPANY'), St. Petersburg 192177, Russia; ul. Ryabinovaya d. 53, Moscow 121471, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: BANK OF MOSCOW).

On September 1, 2016, OFAC determined that Gazprombank OAO owns, directly or indirectly, a 50 percent or greater interest in the following persons. As such, these persons are subject to the prohibitions of Directive 1 (as amended) of September 12, 2014, issued pursuant to E.O. 13662, "Blocking Property of Additional Persons Contributing to the Situation in Ukraine" and 31 CFR 589.406 and 589.802, and following the Secretary of the Treasury's determination pursuant to section l(a)(i) of E.O. 13662 with respect to the financial services sector of the Russian Federation economy.

Entities

1. AREXIMBANK–GAZPROMBANK GROUP CJSC (a.k.a. ARMENIAN–RUSSIAN EXPORT–IMPORT BANK–GAZPROMBANK GROUP CLOSED JOINT–STOCK COMPANY), 12 M. Mkrtchyan Street, Yerevan 375010, Armenia; 6–10 Northern Ave., Yerevan 0001, Armenia; SWIFT/BIC RKASAM22; Web site *www.areximbank.am;* Executive Order 13662 Directive Determination—Subject to Directive 1; Tax ID No. 02540791; All offices worldwide; for more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

2. CENTREX EUROPE ENERGY AND GAS AG (a.k.a. CENTREX EUROPE ENERGY & GAS AG), Wiedner Hauptstrasse 17, Vienna 1040, Austria; Web site *www.centrex.com;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID FN 230884k; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

3. CREDIT URAL BANK (a.k.a. BANK KUB AO; a.k.a. CREDIT URAL BANK JOINT–STOCK COMPANY; a.k.a. KREDIT URAL BANK OTKRYTOE AKTSIONERNOE OBSHCHESTVO; a.k.a. "KUB OAO"), Street Gagarina 17, Magnitogorsk 455044, Russia; SWIFT/BIC CRDURU4C; Web site *www.creditural.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1027400000638; Tax ID No. 7414006722; All offices worldwide; for more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

4. GAZKARDSERVIS OOO (a.k.a. LIMITED LIABILITY COMPANY GAZKARDSERVIS), Obrucheva Street, Building 27, Corpus 2, Moscow 117630, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1027739027634; Tax ID

No. 7724199506; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

5. GAZPROM MEDIA HOLDING (a.k.a. JOINT–STOCK COMPANY GAZPROM–MEDIA HOLDING; a.k.a. JSC GAZPROM–MEDIA HOLDING), Rochdelskaya street building 20, Moscow 123022, Russia; Krasnopresnenskaia nab. 12, CMT2, Porch 7, Floor 10, Moscow 123610, Russia; Profsoyuznaya Street, Building 125A, Moscow 117647, Russia; Web site *www.gazprom-media.com;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 5087746018960; Tax ID No. 7728668727; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

6. GAZPROMBANK (SWITZERLAND) LTD, Zollikerstrasse 183, Zurich 8008, Switzerland; Zollikerstrasse 183, Zurich 8032, Switzerland; SWIFT/BIC RKBZCHZZ; Web site *www.gazprombank.ch;* Executive Order 13662 Directive Determination—Subject to Directive 1; All offices worldwide; for more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

7. GAZPROMBANK LATIN AMERICA VENTURES BV, Dijsselhofplantsoen 14, Amsterdam, Noord-Holland 1077, Netherlands; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 52285421; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

8. GAZPROMBANK LEASING ZAO (a.k.a. CLOSED JOINT–STOCK COMPANY GAZPROMBANK LIZING), Proektiruyemiy proezd No 4062, building 6, structure 16, BTs 'Port Plaza', Moscow 115432, Russia; D.40 Ulitsa Miklukho-Maklaya, Moscow 117342, Russia; Web site *www.gpbl.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1037728033606; Tax ID No. 7728294503; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

9. GAZPROMBANK UPRAVLENIE AKTIVAMI (a.k.a. CLOSED JOINT–STOCK COMPANY GAZPROMBANK–UPRAVLENIE AKTIVAMI; a.k.a. GAZPROMBANK ASSET MANAGEMENT ZAO), 63 Novocheremushkinskaya Street, Moscow 117418, Russia; Koroviy val., building 7, Moscow 119049, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1047796382920; Tax ID No. 7722515837; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

10. GPB FINANCIAL SERVICES LIMITED, Arianthi Court, 2nd floor, 50 Agias Zonis Street, Limassol 3090, Cyprus; Agios Athanasios, 46, Interlink Hermes Plaza, Floor 1, Limassol 4102, Cyprus; Web site *www.gpbfs.com.cy;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID HE 246301; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

11. GPB GLOBAL RESOURCES BV, Dijsselhofplantsoen 14, Amsterdam 1077 BL, Netherlands; Web site *www.gpb-gr.com;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 53240162; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

12. GPB INTERNATIONAL SA, 8–10, rue Mathias Hardt, Luxembourg 1717, Luxembourg; Web site *http://www.gazprombank.ru/eng/group/banks/299515/;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID B178974; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

13. GPB INVEST OOO (a.k.a. LIMITED LIABILITY COMPANY GAZPROMBANK–INVEST), Yakimanka B. Street, Building 39, Moscow 119049, Russia; 27–29/1, building 6, Smolenskaya-Sennaya st., Moscow 119121, Russia; Web site *www.gpbi.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1037602004483; Tax ID No. 7612031791; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

14. GPB–DI HOLDINGS LIMITED (a.k.a. SIRITIA VENTURES LTD), 1 Lampousas, Nicosia 1095, Cyprus; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID HE 145737; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

15. GPB–FACTORING OOO (a.k.a. LIMITED LIABILITY COMPANY GPB–FAKTORING), 63 Novocheremushkinskaya Street, Moscow 117418, Russia; Leninskiy prospect, building 15A, Moscow 119071, Russia; Web site *www.gazprombankfactoring.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1107746158629; Tax ID No. 7727712331; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

16. GPB–MORTGAGE JSC (a.k.a. GPB–IPOTEKA OAO, AB; a.k.a. JOINT–STOCK BANK GPB–MORTGAGE CLOSED JOINT STOCK COMPANY), D.14 Pr Kolomenski, Moscow 115446, Russia; Web site *www.gpb-ipoteka.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1027739137843; Tax ID No. 7727057683; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

17. IZ KARTEKS OOO (a.k.a. IZ–KARTEX NAMED AFTER P.G. KOROBKOV LTD), Izhorskiy Zavod B/N, Kolpino, Saint-Petersburg 196650, Russia; Izhorskiy Zavod, d. b/n, Kolpino, Saint-Petersburg 196651, Russia; Web site *http://iz-kartex.com;* Executive Order 13662 Directive Determination—Subject to Directive 1;

Registration ID 1047855158780; Tax ID No. 7817301375; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

18. IZHORSKIYE ZAVODY OAO (a.k.a. OPEN JOINT STOCK COMPANY IZHORSKIE ZAVODY), Izhorskiy Zavod B/N, Kolpino, Saint-Petersburg 196650, Russia; Izhorskiy Zavod, d. b/n, Kolpino, Saint-Petersburg 196651, Russia; Web site *http://omz-izhora.com;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1027808749121; Tax ID No. 7817005295; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

19. KRIOGENMASH OAO (a.k.a. CRYOGENMASH; a.k.a. OPEN JOINT–STOCK COMPANY KRIOGENNOGO MASHINOSTROYENIA), 67, Lenin Avenue, Balashikha, Moscow Region 143907, Russia; 36 Lenina Prospekt, Balashikha G. 143907, Russia; Web site *www.cryogenmash.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1025000513878; Tax ID No. 5001000066; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

20. NAGELFAR TRADE AND INVEST LIMITED (a.k.a. NAGELFAR TRADE & INVEST LIMITED), Trident Chambers, Road Town, P.O. Box 146, Tortola, Virgin Islands, British; Agias Zonis, 50, Arianthi Court, 2nd floor, Limassol 3090, Cyprus; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

21. NEW FINANCIAL TECHNOLOGIES OOO (a.k.a. CLOSED JOINT-STOCK COMPANY NOVYE FINANSOVYE TEKHNOLOGII; a.k.a. ZAO NOVYE FINANSOVYE TEKHNOLOGII), Vavilova Street, Building 52, Corpus 2, Moscow 117296, Russia; Yaroslavskaya Street, Building 50, Room 208, Uglich, Yaroslav Oblast 152610, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1027739195692; Tax ID No. 7736144212; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

22. OMZ OAO (a.k.a. OBYEDINYONNYE MASHINOSTROITELNYE ZAVODY (GRUPPA URALMASH-IZHORA)), Bld. 20, Ovchinnikovskaya Emb., Moscow 115035, Russia; 24 Timura Frunze Street, Moscow 119021, Russia; Web site *www.omz.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1026605610800; Tax ID No. 6663059899; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

23. OMZ SPETSSTAL OOO (a.k.a. LIMITED LIABILITY COMPANY OMZ-SPETSSTAL; a.k.a. OMZ-SPECIAL STEELS), Kolpino G, Izhorski Zavod, St. Petersburg 196651, Russia; Izhorskiy Zavod, Kolpino, Saint Petersburg 196650, Russia; Web site *www.omz-specialsteel.com;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1026605609348; Tax ID No. 6673089388; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

24. PO URALENERGOMONTAZH ZAO (a.k.a. AO PROIZVODSTVENNOE OBYEDINENIE 'URALENERGOMONTAZH'; a.k.a. "PO UEM JSC"), D. 11 B Kv. 93, Prospekt Kosmonavtov, Ekaterinburg 620017, Russia; Stroibaza, Dobryanka 618740, Russia; 7, Liter A, K 4, Ul. Turbinnaya, Ekaterinburg 620017, Russia; 1a Ul.Vladivostokskaya, Ufa 450078, Russia; Stroibaza Sugres, R-Nvodoka, Per. Tikhi, Verkhnyaya Pyshma 624070, Russia; Rp Reftinski, A/Ya 1, Asbest 624285, Russia; Baes A/Ya 7, Zarechny 624051, Russia; 50, A, Ul. Transportnikov, Berezovski 623703, Russia; Transportnikov Street, Building 50 a, Berezovskiy 623704, Russia; Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1026602949163; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

25. SKODA JS A.S., Orlik 266, Plzen—mesto PSC 316 06, Plzen, Czech Republic; Executive Order 13662 Directive Determination—Subject to Directive 1; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

26. URALMASHZAVOD OAO (a.k.a. URALMASHPLANT), Pl. Pervoi Pyatiletki, Ekaterinburg 620012, Russia; Web site *www.uralmash.ru;* Executive Order 13662 Directive Determination—Subject to Directive 1; Registration ID 1026605620689; Tax ID No. 6663005798; For more information on directives, please visit the following link: *https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: GAZPROMBANK OAO).

On September 1, 2016, OFAC determined that Open Joint Stock Company Gazprom owns, directly or indirectly, a 50 percent or greater interest in the following persons. As such, these persons are subject to the prohibitions of Directive 4 of September 12, 2014, issued pursuant to E.O. 13662, "Blocking Property of Additional Persons Contributing to the Situation in Ukraine" and 31 CFR 589.406 and 589.802, and following the Secretary of the Treasury's determination pursuant to section 1(a)(i) of E.O. 13662 with respect to the energy sector of the Russian Federation economy.

Entities

1. ACHIM DEVELOPMENT, OOO (a.k.a. ACHIM DEVELOPMENT; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'ACHIM DEVELOPMENT'), d.7 ul.Promyshlennaya, Novy Urengoi, Yamalo-Nenetski a.o. 629306, Russia; Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1148904001971; Tax ID No. 8904075533; Government Gazette Number 32131525; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

2. DALTRANSGAZ, OAO (a.k.a. DALTRANSGAZ; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO

'DALTRANSGAZ'), d. 1 ul.Solnechnaya S. Ilinka, Khabarovski Raion Khabarovski krai 680509, Russia; Web site *www.daltransgaz.ru;* Email Address *A.Podojjnicyna@khb.gtt.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1032700295650; Tax ID No. 6500000930; Government Gazette Number 54545960; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

3. DRUZHBA, AO (a.k.a. AKTSIONERNOE OBSHCHESTVO 'DRUZHBA'; a.k.a. DRUZHBA), Rogozinino, Moscow 143397, Russia; Web site *en.imperialhotel.ru;* Email Address *drugba@t50.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1025003747317; Tax ID No. 5030019801; Government Gazette Number 31850347; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

4. GAZMASH, AO (a.k.a. AKTSIONERNOE OBSHCHESTVO 'GAZMASH'; f.k.a. DOCHERNEE OTKRYTOE AKTSIONERNOE OBSHCHESTVO GAZMASH OTKRYTOGO AKTSIONERNOGO OBSHCHESTVA GAZPROM; a.k.a. GAZMASH), d. 54 korp. 1 litera A pomeshch prospekt Primorski, St. Petersburg 197374, Russia; Web site *www.gasmash.ru;* Email Address *asg@gasmash.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027700008390; Tax ID No. 7709014944; Government Gazette Number 13265740; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

5. GAZ-OIL, OOO (a.k.a. GAZ-OIL; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZ-OIL'; f.k.a. ZAKRYTOE AKTSIONERNOE OBSHCHESTVO GAZ OIL), d.10 B ul.Nametkina, Moscow 117420, Russia; Web site gasoil.ru; Email Address *i.blagodarov@gasoil.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1113926004422; Tax ID No. 3906229324; Government Gazette Number 22876655; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

6. GAZPROM DOBYCHA IRKUTSK, OOO (a.k.a. GAZPROM DOBYCHA IRKUTSK; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM DOBYCHA IRKUTSK'; f.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO IRKUTSKGAZPROM), d.14 ul.Nizhnyaya Naberezhnaya, Irkutsk, Irkutskaya obl 664011, Russia; Web site Irkutsk-*dobycha.gazprom.ru;* Email Address *mail@irkgazprom.irk.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1073812008731; Tax ID No. 3812100646; Government Gazette Number 53371127; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

7. GAZPROM DOBYCHA KRASNODAR, OOO (a.k.a. GAZPROM DOBYCHA KRASNODAR; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM DOBYCHA KRASNODAR'), d.53 ul.Shosse Neftyanikov, Krasnodar, Krasnodarski krai 350051, Russia; Web site *www.gazkuban.ru;* Email Address *adm@kuban.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1022301190471; Tax ID No. 2308065678; Government Gazette Number 00153784; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

8. GAZPROM DOBYCHA KUZNETSK, OOO (a.k.a. GAZPROM DOBYCHA KUZNETSK; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM DOBYCHA KUZNETSK'), d.4 prospekt Oktyabrski, Kemerovo, Kemerovskaya obl 650066, Russia; Web site *kuznetsk-dobycha.gazprom.ru;* Email Address *GPKKUZNETSK@MAIL.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1024201465551; Tax ID No. 4216000032; Government Gazette Number 26624330; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

9. GAZPROM DOBYCHA NADYM, OOO (a.k.a. GAZPROM DOBYCHA NADYM; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM DOBYCHA NADYM'), d.1 ul.Zvereva, Nadym, Yamalo-Nenetski a.o. 629730, Russia; Web site *nadymdobycha.gazprom.ru;* Email Address *MANAGER@ONGP.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1028900578080; Tax ID No. 8903019871; Government Gazette Number 00153761; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

10. GAZPROM DOBYCHA NOYABRSK, OOO (a.k.a. GAZPROM DOBYCHA NOYABRSK; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM DOBYCHA NOYABRSK'), d.20 ul. Respubliki, Noyabrsk, Yamalo-Nenetski a.o. 629802, Russia; Web site *noyabrsk-dobycha.gazprom.ru;* Email Address *NGD@NGD.GASPROM.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1028900706647; Tax ID No. 8905026850; Government Gazette Number 05751797; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

11. GAZPROM DOBYCHA URENGOI, OOO (a.k.a. GAZPROM DOBYCHA URENGOY; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM DOBYCHA URENGOI'), d.8 ul.Zheleznodorozhnaya, Novy Urengoi, Yamalo-Nenetski a.o. 629307, Russia; Web site *urengoy-dobycha.gazprom.ru;* Email Address *s.v.mazanov@gd-urengoy.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1028900628932; Tax ID No. 8904034784; Government Gazette

Number 05751745; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

12. GAZPROM DOBYCHA YAMBURG,OOO (a.k.a. GAZPROM DOBYCHA YAMBURG; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM DOBYCHA YAMBURG'), d.9 ul. Geologorazvedchikov, Novy Urengoi, Yamalo-Nenetski a.o 629306, Russia; Web site *yamburg-dobycha.gazprom.ru;* Email Address PRIYEMNAYA@YGDU; Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1028900624576; Tax ID No. 8904034777; Government Gazette Number 04803457; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

13. GAZPROM ENERGO, OOO (a.k.a. GAZPROM ENERGO; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM ENERGO'), 8 Korp. 1 ul.Stroitelei, Moscow 117939, Russia; Web site *gazpromenergo.gazprom.ru;* Email Address *info@adm.energo.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027739841370; Tax ID No. 7736186950; Government Gazette Number 18584757; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

14. GAZPROM FLOT, OOO (a.k.a. GAZPROM FLOT; f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU GAZFLOT; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM FLOT'), d. 12 A ul.Nametkina, Moscow 117420, Russia; Web site *flot.gazprom.ru;* Email Address *denisenko@gazflot.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027700198635; Tax ID No. 7740000037; Government Gazette Number 40025139; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

15. GAZPROM GAZNADZOR, OOO (a.k.a. GAZPROM GAZNADZOR; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM GAZNADZOR'), 41 str. 1 prospekt Vernadskogo, Moscow 119415, Russia; Web site *gaznadzor.gazprom.ru;* Email Address *artemyeva@gaznadzor.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027700528019; Tax ID No. 7740000051; Government Gazette Number 05030626; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

16. GAZPROM GAZOBEZOPASNOST, OOO (a.k.a. GAZPROM GAZOBEZOPASNOST; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM GAZOBEZOPASNOST'), d. 8 korp. 1 ul.Stroitelei, Moscow 119311, Russia; Web site gazbez.ru; Email Address *g.rybanova@gazbez.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1025000658187; Tax ID No. 5003028148; Government Gazette Number 23484472; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

17. GAZPROM GEOLOGORAZVEDKA, OOO (a.k.a. GAZPROM GEOLOGORAZVEDKA; f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU GAZPROM DOBYCHA KRASNOYARSK; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM GEOLOGORAZVEDKA'), d.70 ul.Gertsena, Tyumen, Tyumenskaya obl. 625000, Russia; Web site *geologorazvedka.gazprom.ru;* Email Address *a.davydov@ggr.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1042401809560; Tax ID No. 2460066149; Government Gazette Number 75782730; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

18. GAZPROM INFORM, OOO (a.k.a. GAZPROM INFORM; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM INFORM'; f.k.a. ZAKRYTOE AKTSIONERNOE OBSHCHESTVO INFORMGAZINVEST), d. 13 str. 3 ul.Bolshaya Cheremushkinskaya, Moscow 117447, Russia; Web site *inform.gazprom.ru;* Email Address *d.g.kozlov@inform.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1097746469303; Tax ID No. 7727696104; Government Gazette Number 49880231; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

19. GAZPROM INVEST, OOO (a.k.a. GAZPROM INVEST; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM INVEST'), d. 6 litera D ul.Startovaya, St. Petersburg 196210, Russia; Web site *zapad-invest.gazprom.ru;* Email Address *izelentsov@zapad-invest.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1077847507759; Tax ID No. 7810483334; Government Gazette Number 82129203; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

20. GAZPROM KAPITAL, OOO (a.k.a. GAZPROM KAPITAL; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM KAPITAL'; f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU KAP INFIN), Sosenskoe Pos, Pos. Gazoprovod, D. 101 Korp. 9, Moscow 142770, Russia; Web site gazpromcapital.ru; Email Address *info.gazprom_capital@adm.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1087746212388; Tax ID No. 7726588547; Government Gazette Number 84813628; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–

E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

21. GAZPROM KOMPLEKTATSIYA, OOO (a.k.a. GAZPROM KOMPLEKTATSIYA; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM KOMPLEKTATSIYA'), 8 Korp. 1 ul.Stroitelei, Moscow 119991, Russia; Web site *komplektatsiya.gazprom.ru;* Email Address *gki@gki.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027700501113; Tax ID No. 7740000044; Government Gazette Number 05030632; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

22. GAZPROM MEZHREGIONGAZ, OOO (a.k.a. GAZPROM MEZHREGIONGAZ; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM MEZHREGIONGAZ'), d. DOM 24 korp. LITER A nab.Admirala Lazareva, St. Petersburg 197110, Russia; Web site *mrg.gazprom.ru;* Email Address *k.seleznev@mrg.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1025000653930; Tax ID No. 5003021311; Government Gazette Number 45138919; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

23. GAZPROM PERERABOTKA, OOO (a.k.a. GAZPROM PERERABOTKA; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM PERERABOTKA'), d.16 ul.Ostrovskogo, Surgut, Khanty-Mansiski Avtonomny okrug—Yugra a.o. 628417, Russia; Web site *pererabotka.gazprom.ru;* Email Address *GPP@GPP.GAZPROM.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1071102001651; Tax ID No. 1102054991; Government Gazette Number 97152834; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

24. GAZPROM PERSONAL, OOO (a.k.a. GAZPROM PERSONAL; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM PERSONAL'), 16, Gsp-7 ul.Nametkina, Moscow 117997, Russia; Email Address *a.malushitsky@podzemgazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 5117746041860; Tax ID No. 7728794168; Government Gazette Number 38223286; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

25. GAZPROM PROMGAZ, AO (a.k.a. AKTSIONERNOE OBSHCHESTVO 'GAZPROM PROMGAZ'; a.k.a. GAZPROM PROMGAZ; f.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO GAZPROM PROMGAZ), d. 6 ul.Nametkina, Moscow 117420, Russia; Web site *oao-promgaz.ru;* Email Address *A.Solomko@promgaz.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027700174061; Tax ID No. 7734034550; Government Gazette Number 00158847; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

26. GAZPROM RUSSKAYA, OOO (a.k.a. GAZPROM RUSSKAYA; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM RUSSKAYA'; f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU KOVYKTNEFTEGAZ), 3 korp.2 ul.Varshavskaya, St. Petersburg 196128, Russia; Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1023801016887; Tax ID No. 3808069915; Government Gazette Number 55567892; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives.* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

27. GAZPROM SOTSINVEST, OOO (a.k.a. GAZPROM SOTSINVEST; f.k.a. GAZPROMINVESTARENA OOO; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM SOTSINVEST'), d. 20 litera A nab.Aptekarskaya, St. Petersburg 197022, Russia; Web site *sotsinvest.gazprom.ru;* Email Address *Y.Gagarinskiy@gpia.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1037700253470; Tax ID No. 7736077414; Government Gazette Number 11453584; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives.* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

28. GAZPROM SVYAZ, OOO (a.k.a. GAZPROM SVYAZ; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM SVYAZ'), d.16 ul.Nametkina, Moscow 117997, Russia; Web site *gazsvyaz.ru;* Email Address *a.nosonov@gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027739411457; Tax ID No. 7740000020; Government Gazette Number 04695507; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

29. GAZPROM TELEKOM, OOO (a.k.a. GAZPROM TELECOM; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TELEKOM'; f.k.a. ZAKRYTOE AKTSIONERNOE OBSHCHESTVO GAZTELEKOM), d. 62 str. 2 shosse Starokaluzhskoe, Moscow 117630, Russia; Web site *www.gaztelecom.ru;* Email Address *b.motenko@gazpromtelecom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1137746329962; Tax ID No. 7728840569; Government Gazette Number 42934136; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

30. GAZPROM TRANSGAZ KAZAN, OOO (a.k.a. GAZPROM TRANSGAZ KAZAN; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ KAZAN'), d.41 ul.Adelya Kutuya, Kazan, Tatarstan resp 420073, Russia; Web site *kazan-tr.gazprom.ru;* Email Address *Vlads@TTG.bancorp.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1021603624921; Tax ID No. 1600000036; Government Gazette Number 00154364; For more

information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

31. GAZPROM TRANSGAZ KRASNODAR, OOO (a.k.a. GAZPROM TRANSGAZ KRASNODAR; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ KRASNODAR'), d.36 ul.Im Dzerzhinskogo, Krasnodar, Krasnodarski krai 350051, Russia; Web site *Krasnodar-tr.gazprom.ru;* Email Address *d.matutin@tgk.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1072308003063; Tax ID No. 2308128945; Government Gazette Number 80169546; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

32. GAZPROM TRANSGAZ MAKHACHKALA, OOO (a.k.a. GAZPROM TRANSGAZ MAKHACHKALA; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ MAKHACHKALA; f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU GAZPROM TRANSGAZ MAKHACHKALA), ul.O.Bulacha, Makhachkala, Dagestan resp. 367030, Russia; Web site *Makhachkala-tr.gazprom.ru;* Email Address *emirbekov@dgp.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1020502628486; Tax ID No. 0500000136; Government Gazette Number 12824367; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

33. GAZPROM TRANSGAZ NIZHNI NOVGOROD, OOO (a.k.a. GAZPROM TRANSGAZ NIZHNY NOVGOROD; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ NIZHNI NOVGOROD'), d.11 ul.Zvezdinka, Nizhni Novgorod, Nizhegorodskaya obl. 603950, Russia; Web site *n-novgorod-tr.gazprom.ru;* Email Address *ceo@vtg.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1025203016332; Tax ID No. 5260080007; Government Gazette Number 04864329; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

34. GAZPROM TRANSGAZ SAMARA, OOO (a.k.a. GAZPROM TRANSGAZ SAMARA; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ SAMARA'), d. 106 A str. 1 ul.Novo-Sadovaya, Samara, Samarskaya obl. 443068, Russia; Web site *samara-tr.gazprom.ru;* Email Address *oppt@samaratransgaz.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1026300956505; Tax ID No. 6315000291; Government Gazette Number 00154306; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

35. GAZPROM TRANSGAZ SANKT–PETERBURG, OOO (a.k.a. GAZPROM TRANSGAZ SAINT PETERSBURG; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ SANKT–PETERBURG'), 3 korp.2 ul.Varshavskaya, St. Petersburg 196128, Russia; Web site *www.spb-tr.gazprom.ru;* Email Address *gfokin@spb.ltg.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027804862755; Tax ID No. 7805018099; Government Gazette Number 00154312; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

36. GAZPROM TRANSGAZ SARATOV, OOO (a.k.a. GAZPROM TRANSGAZ SARATOV; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ SARATOV'), d.118 A prospekt Im 50 Let Oktyabrya, Saratov, Saratovskaya obl. 410052, Russia; Web site *Saratov-tr.gazprom.ru;* Email Address *SECR@UTG.GAZPROM.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1026403049815; Tax ID No. 6453010110; Government Gazette Number 04863554; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

37. GAZPROM TRANSGAZ STAVROPOL, OOO (a.k.a. GAZPROM TRANSGAZ STAVROPOL; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ STAVROPOL'), d.6 prospekt Oktyabrskoi Revolyutsii, Stavropol, Stavropolski krai 355000, Russia; Web site *Stavropol-tr.gazprom.ru;* Email Address *ooo@ktg.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1022601940613; Tax ID No. 2636032629; Government Gazette Number 04864447; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

38. GAZPROM TRANSGAZ SURGUT, OOO (a.k.a. GAZPROM TRANSGAZ SURGUT; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ SURGUT'), d.1 ul.Universitetskaya, Surgut, Khanty-Mansiski Avtonomny okrug—Yugra a.o. 628406, Russia; Web site *Surgut-tr.gazprom.ru;* Email Address *TELEGRAF@SURGUT.GAZPROM.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1028601679314; Tax ID No. 8617002073; Government Gazette Number 05015124; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

39. GAZPROM TRANSGAZ TOMSK, OOO (a.k.a. GAZPROM TRANSGAZ TOMSK; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ TOMSK'), d.9 prospekt Frunze, Tomsk, Tomskaya obl. 634029, Russia; Web site *tomsk-tr.gazprom.ru;* Email Address *A.rays@tlru.gtt.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027000862954; Tax ID No. 7017005289; Government Gazette Number 04634954; For more information on directives, please visit

the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

40. GAZPROM TRANSGAZ UFA, OOO (a.k.a. GAZPROM TRANSGAZ UFA; f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU BASHTRANSGAZ OTKRYTOGO AKTSIONERNOGO OBSHCHESTVA GAZPROM; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ UFA'), 59 ul.Rikharda Zorge, Ufa, Bashkortostan resp. 450054, Russia; Web site *ufa-tr.gazprom.ru;* Email Address *info@bashtg.gazp;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1020202861821; Tax ID No. 0276053659; Government Gazette Number 00154358; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

41. GAZPROM TRANSGAZ UKHTA, OOO (a.k.a. GAZPROM TRANSGAZ UKHTA; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ UKHTA'), d.39/2 prospekt Lenina, Ukhta, Komi resp 169312, Russia; Web site *ukhta-tr.gazprom.ru;* Email Address *azaharov@sgp.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1021100731190; Tax ID No. 1102024468; Government Gazette Number 00159025; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

42. GAZPROM TRANSGAZ VOLGOGRAD, OOO (a.k.a. GAZPROM TRANSGAZ VOLGOGRAD; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ VOLGOGRAD'), 58 ul.Raboche-Krestyanskaya, Volgograd, Volgogradskaya obl. 400074, Russia; Web site *Volgograd-tr.gazprom.ru;* Email Address *VTG@GASPROM.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1023403849182; Tax ID No. 3445042160; Government Gazette Number 00154281; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

43. GAZPROM TRANSGAZ YUGORSK, OOO (a.k.a. GAZPROM TRANSGAZ YUGORSK; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TRANSGAZ YUGORSK'; f.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU TYUMENTRANSGAZ), d.15 ul.Mira, Yugorsk, Khanty-Mansiski Avtonomny okrug, Yugra a.o. 628260, Russia; Web site *www.gazprom-transgaz-yugorsk.ru;* Email Address *KANS1@TTG.GAZPROM.RU;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1028601843918; Tax ID No. 8622000931; Government Gazette Number 00154223; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

44. GAZPROM TSENTRREMONT, OOO (a.k.a. GAZPROM TSENTRREMONT; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'GAZPROM TSENTRREMONT'), d.1 ul.Moskovskaya, Shchelkovo, Moskovskaya obl 141112, Russia; Web site *centrremont.gazprom.ru;* Email Address *I.Suvorova@gcr.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1085050006766; Tax ID No. 5050073540; Government Gazette Number 86732184; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

45. GAZPROM VNIIGAZ, OOO (a.k.a. GAZPROM VNIIGAZ; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'NAUCHNO–ISSLEDOVATELSKI INSTITUT PRIRODNYKH GAZOV I GAZOVYKH TEKHNOLOGI—GAZPROM VNIIGAZ'), P Razvilka, Leninski Raion, Moskovskaya obl. 142717, Russia; Web site *www.vniigaz.ru;* Email Address *adm@vniigaz.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1025000651598; Tax ID No. 5003028155; Government Gazette Number 31323949; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

46. KAMCHATGAZPROM, OAO (a.k.a. KAMCHATGAZPROM; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO 'KAMCHATGAZPROM'), d.19 ul.Pogranichnaya, Petropavlovsk-Kamchatski, Kamchatski krai 683032, Russia; Web site *gazprom.kamchatka.ru;* Email Address *novikova@gazprom.kamchatka.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1024101219966; Tax ID No. 4105023034; Government Gazette Number 10870044; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

47. KRASNOYARSKGAZPROM, PAO (a.k.a. KRASNOYARSKGAZPROM; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO 'KRASNOYARSKGAZPROM'), d.1 pl.Akademika Kurchatova, Moscow 123182, Russia; Web site *www.kgazprom.ru;* Email Address *lukyanchikov@kgazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1022401804820; Tax ID No. 2460040655; Government Gazette Number 52290094; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

48. LAZURNAYA, OOO (a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'LAZURNAYA'; a.k.a. "LAZURNAYA"), d.103 prospekt Kurortny, Sochi, Krasnodarski krai 354024, Russia; Web site *www.lazurnaya.ru;* Email Address *res@lazurnaya.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1132367004989; Tax ID No. 2319070831; Government Gazette Number 10077966; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/*

ukraine.aspx#directives [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

49. NIIGAZEKONOMIKA, OOO (a.k.a. NIIGAZECONOMIKA; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU 'NAUCHNOISSLEDOVATELSKI INSTITUT EKONOMIKI I ORGANIZATSII UPRAVLENIYA V GAZOVOIPROMYSHLENNOSTI'), d. 20 korp. 8 ul. Staraya Basmannaya, Moscow 107066, Russia; Web site *niigazeconomika.gazprom.ru;* Email Address *econmg@gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027739345842; Tax ID No. 7701022125; Government Gazette Number 47588503; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

50. VOSTOKGAZPROM, OAO (a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO 'VOSTOKGAZPROM'; a.k.a. VOSTOKGAZPROM), d.73 ul.Bolshaya Podgornaya, Tomsk, Tomskaya obl. 634009, Russia; Web site *vostokgazprom.gazprom.ru;* Email Address *canclervgp@vostokgazprom.ru;* alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027000855111; Tax ID No. 7017005296; Government Gazette Number 49382579; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

51. YAMALGAZINVEST, ZAO (a.k.a. YAMALGAZINVEST; a.k.a. ZAKRYTOE AKTSIONERNOE OBSHCHESTVO 'YAMALGAZINVEST'), d. 41 korp. 1 prospekt Vernadskogo, Moscow 117415, Russia; Web site *www.yamalgazinvest.gazprom.ru;* Email Address *a.alyabev@sever-invest.gazprom.ru;* Executive Order 13662 Directive Determination—Subject to Directive 4; Registration ID 1027700154261; Tax ID No. 7728149400; Government Gazette Number 45938198; For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives* [UKRAINE–E.O. 13662] (Linked To: OPEN JOINT STOCK COMPANY GAZPROM).

Dated: September 1, 2016.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

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DEPARTMENT OF THE TREASURY

United States Mint

Initial Pricing for 2016 United States Mint American Eagle Products

AGENCY: United States Mint, Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the initial prices for 2016 American Eagle One Ounce Silver coin products. These prices are listed in the table below.

Product	2016 Retail price
American Eagle One Ounce Silver Proof Coin	$53.95
American Eagle One Ounce Silver Uncirculated Coin	44.95
United States Mint Congratulations Set	54.95
United States Mint Uncirculated Dollar Coin Set	49.95
2016 Coin & Chronicles Set—Ronald Reagan	68.95

FOR FURTHER INFORMATION CONTACT: Katrina McDow; Product Manager; Numismatic and Bullion; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–8495.

Authority: 31 U.S.C. 5112.

Dated: August 31, 2016.

David Motl,

Acting Deputy Director for Management, United States Mint.

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Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

Endangered and Threatened Species; Identification of 14 Distinct Population Segments of the Humpback Whale (*Megaptera novaeangliae*) and Revision of Species-Wide Listing; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 130708594–6598–03]

RIN 0648–XC751

Endangered and Threatened Species; Identification of 14 Distinct Population Segments of the Humpback Whale (Megaptera novaeangliae) and Revision of Species-Wide Listing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: We, NMFS, issue a final determination to revise the listing status of the humpback whale (*Megaptera novaeangliae*) under the Endangered Species Act (ESA). We divide the globally listed endangered species into 14 distinct population segments (DPS), remove the current species-level listing, and in its place list four DPSs as endangered and one DPS as threatened. Based on their current statuses, the remaining nine DPSs do not warrant listing. At this time, we find that critical habitat is not determinable for the three listed DPSs that occur in U.S. waters (Western North Pacific, Mexico, Central America); we will consider designating critical habitat for these three DPSs in a separate rulemaking.

DATES: This final rule is effective October 11, 2016.

ADDRESSES: Public comments, a list of references cited in this final rule, and other supporting materials are available at *www.regulations.gov* identified by docket number NOAA–NMFS–2015–0035, or by submitting a request to the National ESA Listing Coordinator, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13536, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Marta Nammack, NMFS, (301) 427–8469, *marta.nammack@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2009, we announced the initiation of a status review of the humpback whale to determine whether an endangered listing for the entire species was still appropriate (74 FR 40568). We sought information from the public to inform our review, contracted with two post-doctoral students to compile the best available scientific and commercial information on the species (Fleming and Jackson 2011), including the past, present, and foreseeable future threats to this species, and appointed a Biological Review Team (BRT) to analyze that information, make conclusions on extinction risk, and prepare a status review report (Bettridge *et al.* 2015).

On April 16, 2013, we received a petition from the Hawaii Fishermen's Alliance for Conservation and Tradition, Inc., to classify the North Pacific humpback whale population as a DPS and then "delist" that DPS under the ESA. On February 26, 2014, the State of Alaska submitted a petition to delineate the Central North Pacific (Hawaii) "stock" of the humpback whale as a DPS and subsequently remove that DPS from the ESA List of Endangered and Threatened Species. After reviewing the petitions, the literature cited in the petitions, and other literature and information available in our files, we found that both petitioned actions may be warranted and issued positive 90-day findings (78 FR 53391, August 29, 2013; 79 FR 36281, June 26, 2014). Public comment periods were opened upon publication of these findings to solicit information to be considered in the context of the ongoing status review. We subsequently extended the public comment period pertaining to information regarding the Central North Pacific (Hawaii) population (79 FR 40054; July 11, 2014). We then incorporated all information into a single status review report of the humpback whale (available at *http://www.fisheries.noaa.gov/pr/species/mammals/whales/humpback-whale.html*).

Based on information presented in the status review report (which included a demographic analysis, threats analysis, and extinction risk analysis), our assessment of the BRT's conclusions, and efforts being made to protect the species, we initially determined: (1) 14 populations of the humpback whale met the criteria of the NMFS and U.S. Fish and Wildlife Service (USFWS) joint 1996 DPS Policy and were, therefore, considered to be DPSs; (2) the Cape Verde Islands/Northwest Africa and Arabian Sea DPSs were in danger of extinction throughout their ranges; (3) the Western North Pacific and Central America DPSs were likely to become endangered throughout all of their ranges within the foreseeable future; and (4) the West Indies, Hawaii, Mexico, Brazil, Gabon/Southwest Africa, Southeast Africa/Madagascar, West Australia, East Australia, Oceania, and Southeastern Pacific DPSs were not in danger of extinction throughout all or a significant portion of their ranges or likely to become so within the foreseeable future. Accordingly, we issued a proposed rule (80 FR 22304; April 21, 2015) to revise the species-wide listing of the humpback whale by replacing it with two endangered species listings (Cape Verde Islands/Northwest Africa and Arabian Sea DPSs) and two threatened species listings (Western North Pacific and Central America DPSs). We also proposed to extend all ESA section 9 prohibitions to both the Western North Pacific and the Central America DPSs. As described below, after considering public comments and the best available scientific and commercial information, we have now reached our final determinations, which in three instances differ from our proposed determinations. We now issue a final rule to revise the species-wide listing of the humpback whale by replacing it with four endangered species listings (Cape Verde Islands/Northwest Africa, Western North Pacific, Central America, and Arabian Sea DPSs) and one threatened species listing (Mexico DPS). We also finalize our proposed rule to extend all ESA section 9 prohibitions to threatened humpback whales (which now consists of the Mexico DPS).

Listing Determinations Under the ESA

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To reach a listing determination for a particular group of organisms, we must first consider whether that group of organisms constitutes a "species" under the ESA, and then we consider whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a "species" to include "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." On February 7, 1996, NMFS and the USFWS (together, the Services) adopted a policy describing what constitutes a DPS of a species or subspecies (61 FR 4722). The joint DPS policy identified two elements that must be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. As stated in the joint DPS policy, Congress expressed an expectation that the Services would exercise authority with regard to identifying DPSs sparingly and only when the biological evidence indicates such action is warranted.

Section 3 of the ESA defines an endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range" and a threatened species as one "which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range" (16 U.S.C. 1533(6); (20)). Thus, we interpret an "endangered species" to be one that is presently in danger of extinction. A "threatened species," on the other hand, is not presently in danger of extinction, but is likely to become so within the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

As we explained in the proposed rule and summarize here, when we consider whether a species might qualify as threatened under the ESA, we must consider the meaning of the term "foreseeable future." It is appropriate to interpret "foreseeable future" as the horizon over which predictions about the conservation status of the species can be reasonably relied upon. The foreseeable future considers the life history of the species, habitat characteristics, availability of data, particular threats, ability to predict threats, and the reliability to forecast the effects of these threats and future events on the status of the species under consideration. Because a species may be susceptible to a variety of threats for which different data are available, or which operate across different time scales, the foreseeable future is not necessarily reducible to a particular number of years. Our approach is consistent with the legal analysis adopted by the Department of the Interior. *See* United States Department of the Interior, Office of the Solicitor, Memorandum, "The Meaning of 'Foreseeable Future' in section 3(20) of the Endangered Species Act," M–37021 (Jan. 16, 2009).

In determining the listing status of a species, subspecies, or DPS, the ESA and implementing regulations require that we consider whether the species is endangered or threatened because of any one or a combination of the following factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization of the species for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting a species' continued existence (16 U.S.C. 1533(a)(1); 50 CFR 424.11(c)). We evaluate demographic risk factors (*i.e.,* abundance and trend information) in conjunction with the section 4(a)(1) factors. The demographic risk analysis is an assessment of the manifestation of past threats that have contributed to the species' current status and also informs the consideration of the biological response of the species to present and future threats.

Section 4(b)(1)(A) of the ESA requires us to make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts being made by any State or foreign nation or political subdivision thereof to protect the species (16 U.S.C. 1533(b)(1)(A)).

Applying the definitions of "endangered species" and "threatened species," we first consider the status of a "species" (which includes subspecies and DPSs) "throughout all . . . of its range." If (and only if) this rangewide evaluation does not lead to a conclusion that the species should be listed as endangered or threatened, then we must consider whether the species may be endangered or threatened in "a significant portion of its range." If it is, then the entire species (or subspecies, or DPS) will be listed. As we explained in the proposed rule and summarize here, we are guided in these listing determinations by the final joint policy adopted by the Services in 2014 (79 FR 37577; July 1, 2014) (Final SPOIR Policy). The Final SPOIR Policy explains that it is necessary to fully evaluate a portion under the "significant portion of its range" authority only if substantial information indicates that the members of the species in a particular area are likely to *both* meet the test for biological "significance" established in the policy *and* to be currently endangered or threatened in that area. Making this preliminary determination triggers a need for further review, but does not prejudge whether the portion actually meets these standards such that the species should be listed.

The BRT initially applied the higher threshold for "significance" from the 2011 draft SPOIR policy but before finalizing the report confirmed that application of the threshold of the final SPOIR Policy would not have changed the findings for any DPS (See 80 FR 22304, at 22349). (The draft SPOIR policy differed from the final SPOIR policy in that a portion of the range of a species was considered "significant" if the portion's contribution to the viability of the species was so important that, without that portion, the species would be in danger of extinction (*i.e.,* endangered) throughout all of its range. Under the Final SPOIR Policy, the hypothetical loss of the portion being considered would only need to result in the species being at least threatened throughout its range instead of endangered throughout its range.)

Status Review

A summary of basic biological and life history information of the humpback whale can be found in the proposed rule (80 FR 22304; April 21, 2015 at 22307–22309) and more details can be found in Fleming and Jackson (2011) and the BRT's status review report (Bettridge *et al.* 2015; available at *http://www.nmfs.noaa.gov/pr/species/statusreviewes.htm*). As we described more fully in the proposed rule, to identify potential DPSs, the BRT reviewed the best scientific and commercial data available on the humpback whale's taxonomy and concluded that there are likely three unrecognized subspecies of humpback whale: North Pacific, North Atlantic, and Southern Hemisphere. In reaching this conclusion, the BRT considered available life history, morphological, and genetic information (mtDNA and DNA relationships and distribution, as described in Jackson *et al.* (2014)). Next, the BRT considered various humpback whale populations to determine whether they satisfied the DPS criteria of discreteness and significance relative to the three subspecies.

The BRT considered both the abundance and trend information (*i.e.,* the demographic analysis) and the threats to each DPS before reaching its conclusions on overall extinction risk for each DPS. With regard to the demographic analysis, the BRT concluded that abundance and, where available, trend information should be considered carefully but were not the sole criteria for evaluating extinction risk. When considering numbers of individuals within a DPS, the BRT considered the following general thresholds for population risk: A DPS with a total population size >2,000 individuals was not likely to be at risk due to low abundance alone; a DPS with a population size <2,000 individuals would be at increasing risk from factors associated with low abundance (and the lower the population size, the greater the risk); a DPS with a population size <500 individuals would be at high risk due to low abundance; and a DPS with a population size <100 individuals would be at extremely high risk due to low abundance. BRT members also considered how each of the factors (or threats) listed in ESA section 4(a)(1) contribute to the extinction risk of each DPS now and in the foreseeable future.

The BRT decided to evaluate risk of extinction over a time frame of approximately 60 years, which corresponds to about three humpback whale generations. The BRT concluded it could be reasonably confident in evaluating extinction risk over this time period (the foreseeable future) because current trends in both the biological status of the species and the threats it faces are reasonably foreseeable over this period of time. In making our listing determinations, we have applied a period of 60 years as the general foreseeable future when considering impacts to the species.

In reaching our proposed listing determinations, we reviewed the status review report (Bettridge *et al.* 2015) and concluded that it provided the best available scientific and commercial data on the identification of DPSs, abundance and trends, and section 4(a)(1) factors as of the time it was compiled. To make the proposed listing determinations, we used the best available scientific and commercial data on the humpback whale, which are summarized in the status review report and incorporated herein. After considering conservation efforts by States and foreign nations to protect the DPS, as required under section 4(b)(1)(A), we proposed listing determinations based on the statutory definitions of "endangered species" and "threatened species" (80 FR 22304; April 21, 2015).

To make our final listing determinations, we reviewed all information provided during the 90-day public comment period on the proposed rule (which included some studies and reports not initially considered for the proposed rule), information received through the four public hearings, and additional scientific and commercial data that became available since the publication of the proposed rule and the status review report. In most cases, this additional information merely supplemented, and did not differ significantly from, the information presented in the proposed rule. Where new information was received, we have reviewed it and present our evaluation of the information in this final rule. In most cases, the new information received was not so significant that we are relying on it for our final determinations. We received comments and received or obtained new information on the West Indies DPS, the Western North Pacific DPS, the Hawaii DPS, the Mexico DPS, the Central America DPS, the Gabon/Southwest Africa DPS, and the Oceania DPS. After reviewing public comments and new information, we determined that: (1) Some of the data we relied upon for the West Indies DPS abundance estimate is not yet available in final, validated form or fully analyzed by the authors of the relevant study, so for the final rule we are relying solely on data from an earlier survey because it represents the best available scientific and commercial data, but this does not change our initial determination that listing this DPS is not warranted; (2) upon reconsideration of the information we had at the time of our proposal, the extinction risk to the Western North Pacific DPS should be classified as high, not moderate, and therefore, we are listing this DPS as endangered instead of threatened; (3) upon reconsideration of the information we had at the time of our proposal, and in light of updated, lower abundance estimates, the extinction risk to the Mexico DPS should be classified as moderate, not low, and therefore, we are listing this DPS as threatened; (4) upon reconsideration of the information we had at the time of our proposal, and in light of the updated, lower abundance estimate for the Central America DPS and associated uncertainties, the extinction risk to the Central America DPS should be classified as high, not moderate, and therefore, we are listing this DPS as endangered instead of threatened; (5) we have updated the population abundance estimate for the Gabon/Southwest Africa DPS to 7,134, based on more reliable data, but this does not change our initial determination that listing this DPS is not warranted; and (6) the population abundance estimate and the population growth rate of the Oceania DPS are 4,329 and 3 percent per year (previously "unknown"), respectively, which further strengthens our initial determination that listing this DPS is not warranted. With this rule, we finalize our listing determinations, resulting in four DPSs listed as endangered (E), one DPS listed as threatened (T), and nine DPSs not warranted for listing (NW), as described in the following table:

Humpback Whale DPS	Proposed	Final
West Indies	NW	NW.
Cape Verde Islands/ Northwest Africa.	E	E.
Western North Pacific	T	E.
Hawaii	NW	NW.
Mexico	NW	T.
Central America	T	E.
Brazil	NW	NW.
Gabon/Southwest Africa	NW	NW.
Southeast Africa/Madagascar.	NW	NW.
West Australia	NW	NW.
East Australia	NW	NW.
Oceania	NW	NW.
Southeastern Pacific	NW	NW.
Arabian Sea	E	E.

Rationale for Revising the Listing Status of a Listed Species Under the ESA

We have determined that, based on the best available scientific and commercial information, the humpback whale should be recognized under the ESA as 14 individual DPSs. We described the delineations of these 14 DPSs in detail in the 12-month determination and proposed rule (80 FR 22304; April 21, 2015). Comments regarding the delineation are addressed under Summary of Comments below. Based on a comprehensive status review and our analysis of demographic factors and the section 4(a)(1) factors, we have concluded that four of the DPSs qualify as endangered species, one qualifies as a threatened species, and nine do not warrant listing. Our action here is prompted both by our own review, begun in 2009, and the two delisting petitions we received.

Our final determinations are based on the best available scientific and commercial information pertaining to the species throughout its range and within each DPS. In this final rule, we are identifying 14 DPSs, making listing determinations for each DPS, and revising the current listing. We find that the purposes of the ESA would be furthered by managing this wide-ranging species as separate units under the DPS authority, in order to tailor protections of the ESA to those populations that warrant protection. Based on a review of the demographics of these DPSs and the five factors contained in ESA section 4(a)(1), we find that the best available science no longer supports a finding that the species is an "endangered species" throughout its range. We revise the listing for the humpback whale by removing the current species-wide listing and in its place listing four DPSs as endangered and one DPS as threatened. Nine DPSs are not being listed because their current status does not warrant listing. Because these DPSs are not currently listed as separate entities, we are revising and replacing the existing listing of the species with separate listings for those DPSs that warrant classification as threatened or endangered under authority of sections 4(a)(1) and 4(c)(1) of the ESA, rather than "delisting" those DPSs that do not warrant such classification under our regulations (50 CFR 424.11(d)). However, the effect of our final action is that the protections of the ESA no longer apply to these nine DPSs. We note that we have previously reclassified a species into constituent populations (*e.g.,* identified western and eastern populations of the gray whale (*Eschrichtius robustus*) and revised the listing to remove one population (the eastern one) from the endangered species list (59 FR 31094; June 16, 1994)).

The ESA gives us authority to make these listing determinations and to revise the lists of endangered and threatened species to reflect these determinations. Section 4(a)(1) of the ESA authorizes us to determine by regulation whether "any species," which is expressly defined to include species, subspecies, and DPSs, is endangered or threatened based on certain factors. Review of the status of a species may be commenced at any time, either on our own initiative through a status review at any time, or in connection with a "5-year" review under section 4(c)(2), or in response to a petition. A DPS is not a scientifically recognized entity, but rather one that is created under the language of the ESA and effectuated through our 1996 DPS Policy. Because recognition of DPSs is not mandatory, we have some inherent discretion to determine whether a species-level listing should be reclassified into DPSs and what boundaries should be recognized for each DPS. At the conclusion of the listing review process, ESA section 4(c)(1) gives us authority to update the lists of endangered species and threatened species to conform to our most recent determinations. This can include revising the lists to remove a species from the lists or reclassifying the listed entity.

Neither the ESA nor our regulations explicitly prescribe the process we should follow where the best available scientific and commercial information indicates that the listing of a taxonomic species should be updated and revised into listings of constituent DPSs. To the extent it may be said that the statute is ambiguous as to precisely how the updated listings should replace the original listing in such circumstances, we provide our interpretation of the statutory scheme. The purposes of the statute are furthered in certain situations where the agency has determined that it is appropriate to revise a rangewide listing in order to ensure that the current lists of endangered and threatened species comport with the best available scientific and commercial information. For example, updating a listing may further the statute's purpose of recognizing when the status of a listed species has improved to the point that fewer protections are needed under the ESA, allowing for appropriately tailored management for the populations that do not warrant listing and for those remaining populations that do. Where a species, subspecies, or DPS no longer needs protection of the ESA, removing those protections may free resources that can be devoted to the protection of other species. Conversely, disaggregating a species listing into DPSs can also sometimes lead to greater protections if one or more constituent DPSs qualify for reclassification to endangered.

There is no practicable alternative to simultaneously recognizing the newly identified DPSs and assigning them the various statuses of threatened, endangered, or not warranted to replace the original taxonomic species listing. It would be nonsensical and contrary to the statute's purposes and the best available science requirement to attempt to first separately list all the constituent DPSs; the best available scientific and commercial information would not support listing all of the DPSs now in order to delist some of them subsequently. Nor would it make sense to attempt to first "delist" the species-level listing in order to then list some of the constituent DPSs. Where multiple DPSs qualify for listing as endangered or threatened, it would inherently thwart the statute's purposes to remove protections of the ESA from all members of the species even temporarily. The approach we have taken in this final rule ensures a smooth transition from the former taxonomic species listing of endangered to today's listing of certain specified DPSs: Four as endangered and one as threatened (and nine as not-warranted).

We will continue to monitor the status of the entire range of the humpback whale. For any listed DPSs, monitoring is as a matter of course, pursuant to the obligation to periodically review the status of these species (ESA section 4(c)(2)). In addition, we will undertake monitoring of the DPSs that are not listed as a result of their improved status (consistent with ESA section 4(g)).

Summary of Comments

On April 21, 2015, we solicited comments during a 90-day public comment period from all interested parties including the public, other concerned governments and agencies, Indian tribal governments, Alaska Native tribal governments or organizations, the scientific community, industry, and any other interested parties on the proposed rule (80 FR 22304). Specifically, we requested information regarding:

(1) The identification of 3 subspecies of humpback whale composed of 14 DPSs;

(2) The current population status of identified humpback whale DPSs;

(3) Biological or other information regarding the threats to the identified humpback whale DPSs;

(4) Information on the effectiveness of ongoing and planned humpback whale conservation efforts by countries, states, or local entities;

(5) Activities that could result in a violation of section 9(a)(1) of the ESA if such prohibitions are applied to the Western North Pacific and Central America DPSs;

(6) Whether any DPS of the humpback whale that is not listed under the ESA in a final rule would automatically lose depleted status under the Marine Mammal Protection Act (MMPA), or, if not, what analysis and process is required by the MMPA before a change in depleted status may occur. We sought comments regarding different options for construing the relevant provisions of these statutes in harmony;

(7) Whether approach regulations should be promulgated under the MMPA for the protection of the Hawaii DPS of the humpback whale because if the rule became final as proposed, that DPS would no longer be listed under the ESA, or whether current protections in effect in the Hawaiian Islands Humpback Whale National Marine Sanctuary (at 15 CFR 922.184) are sufficient for the protection of the species from vessel interactions. We indicated that commenters should consider the impact of the proposal by NOAA's Office of National Marine Sanctuaries to expand the sanctuary boundaries and strengthen the approach regulations (80 FR 16224; March 26, 2015), which has since been withdrawn (81 FR 13303; March 14, 2016);

(8) Whether approach regulations in effect for the protection of humpback whales in Alaska, currently set forth at 50 CFR 224.103(b), should be relocated to Part 223 (which applies to threatened species) for the continuing protection of the Western North Pacific DPS, and whether these regulations should also be set out in 50 CFR part 216 as MMPA regulations for the protection of all humpback whales occurring in that area, in light of the fact that the MMPA

was one of the original authorities cited in promulgating the regulation;

(9) Information related to the designation of critical habitat, including identification of those physical or biological features which are essential to the conservation of the Western North Pacific and Central America DPSs of humpback whale and which may require special management consideration or protection;

(10) Economic, national security, and other relevant impacts from the designation of critical habitat for the Western North Pacific and Central America DPSs of humpback whale; and

(11) Research and other activities that would be important to include in post-delisting monitoring plans for the West Indies, Hawaii, Mexico, Brazil, Gabon/Southwest Africa, Southeast Africa/Madagascar, West Australia, East Australia, Oceania, and Southeastern Pacific DPSs.

We received 225 comment letters on the proposed rule. One of the commenters attached a form letter that was signed by 13,279 members, as well as 539 letters that were modified versions of the same form letter. Another commenter sent a letter, including signatures from 3,464 U.S. individuals and 4,046 individuals from foreign countries. We also held four public hearings in Honolulu, HI; Juneau, AK; Plymouth, MA; and Virginia Beach, VA, at which 13 members of the public provided testimony.

Summaries of the substantive public comments received, and our responses, are provided below, organized by topic.

Comments on Topics That Apply to Multiple DPSs

Comment 1: One commenter stated that NMFS initiated an ESA status review of the humpback whale in 2009 and asserted that it has yet to be completed. The commenter added that the findings are likely to shed new light onto the population status of humpback whale DPSs in the North Pacific.

Response: We initiated an ESA status review in 2009 and completed it in 2015 (Bettridge *et al.* 2015). We relied upon the status review report to make our conclusions about the humpback whale DPSs and their status under the ESA. More recent information available since the report's publication and since publication of the proposed rule was considered during development of this final rule. If we become aware of new information at a later date that may affect our understanding of the DPSs' status, we can initiate a new status review. New information can also be evaluated during the 5-year reviews that are required under ESA section 4(c)(2) or presented via a petition at any time.

Comment 2: One commenter stated that the ESA is only valid within the borders of the United States and that consideration of listing or delisting populations that are not within our borders is meaningless as far as protective status is concerned.

Response: Section 4 of the ESA requires that we list any species that we determine to be endangered or threatened, whether it occurs within the United States or elsewhere. Demonstrating a need to secure particular protections under the other sections of the ESA, or that such protections will be afforded where the species is found, is not a precondition to listing. While it is true that fewer protections apply under the ESA for foreign species, important protections do apply. All persons subject to the jurisdiction of the United States (including its citizens) must comply with section 9 of the ESA, which, among other things, makes it unlawful to import endangered species into the United States or to export them from the United States, or to "take" endangered species within the territorial sea of the United States or upon the high seas (16 U.S.C. 1538(a)(1)(A)–(C)). These protections may be extended to threatened species through a rule issued under section 4(d). In addition, listing provides important educational benefits.

Comment 3: One commenter questioned the "significance" criterion of the DPS Policy, asserting that if a population is discrete from other populations, it should qualify as a DPS.

Response: As noted earlier, the Services published the Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act in 1996 (61 FR 4722; February 7, 1996). To be considered a DPS, a population must be both discrete from the remainder of the species to which it belongs and significant to the species to which it belongs. The DPS policy states:

> If a population segment is considered discrete under one or more of the above conditions, its biological and ecological significance will then be considered in light of Congressional guidance (see Senate Report 151, 96th Congress, 1st Session) that the authority to list DPS's be used "* * * sparingly" while encouraging the conservation of genetic diversity. In carrying out this examination, the Services will consider available scientific evidence of the discrete population segment's importance to the taxon to which it belongs. This consideration may include, but is not limited to, the following:
>
> 1. Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon;
> 2. Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon;
> 3. Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or
> 4. Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics. Because precise circumstances are likely to vary considerably from case to case, it is not possible to describe prospectively all the classes of information that might bear on the biological and ecological importance of a discrete population segment.

The DPS Policy was adopted following a period of public comment and is the Services' definitive interpretation of "distinct population segments." *See Northwest Ecosystem Alliance* v. *U.S. Fish and Wildlife Service,* 475 F.3d 1136, 1143 (9th Cir. 2007) (holding that the DPS Policy is entitled to deference as a duly promulgated, binding policy). Therefore, discreteness alone is not sufficient for identifying a population as a DPS.

Comment 4: Several commenters supported identifying DPSs, but recommended that populations in different feeding areas be identified as DPSs separately from breeding population DPSs in order to support species diversity, as is done under the MMPA in some cases. One of these commenters supported our decision to identify DPSs because they agree that humpback whales should not be listed under the ESA as a global species, nor solely as three sub-species. This commenter also understood the rationale for initially focusing on distinct breeding stocks, as well as the mandate to apply DPSs sparingly.

The commenters were nevertheless concerned that the proposed set of DPSs may not be adequate to maintain species diversity in light of humpback whale ecology, suggesting that humpback whales exhibit strong fidelity to feeding grounds as well as breeding grounds. This commenter noted that individuals that interbreed return reliably to their own discrete feeding areas, and these can be widely separated across ocean basins. The commenter asserted that we have previously indicated that if humpback whales were to be extirpated on one North Atlantic feeding ground then that area would not be re-colonized within a management-relevant time frame (Waring *et al.* 2000), stating that this rationale was used to redefine the MMPA management unit for stock assessment from the Western North Atlantic to the Gulf of Maine (Waring *et* *al.* 2000). The commenter strongly agreed with this view and management action and believed that the same rationale applies to the preservation of species range and diversity under the ESA.

Furthermore, the commenter stated, there are significant genetic differences among feeding grounds in both the North Atlantic and the North Pacific (Palsbøll *et al.* 2001; Baker *et al.* 2013), including among feeding grounds that share a proposed DPS. One example is the "low but significant divergence between all summer foraging grounds . . . as well as between all summer foraging grounds and the samples collected on the breeding grounds in the West Indies" (Palsbøll *et al.* 2001). The commenter asserted that such differences are not adequately explained by our knowledge of breeding stocks, and therefore likely not captured by breeding-based DPS units alone. Finally, this commenter noted, there is evidence of cultural transmission of feeding behavior among individuals on at least one feeding ground (Allen *et al.* 2013; Weinrich *et al.* 1992), and such knowledge cannot be shared across breeding populations due to the segregation of breeding and feeding habitats. For these reasons, this commenter suggested that feeding aggregations warrant individual consideration under the ESA.

Response: MMPA stocks do not necessarily coincide with DPSs under the ESA. To be identified as a DPS under the ESA, a population must be both discrete from other conspecific populations and significant to the species or subspecies to which it belongs. A population need only be demographically independent from another population to be considered a stock under the MMPA (NMFS 2016). It may be true that humpback whales demonstrate fidelity to their feeding areas, and if a stock in a particular feeding area is extirpated, it may not be repopulated within a management-relevant time period; however, this is not the test under the DPS policy. NMFS held a workshop on *Conservation Units of Managed Fish, Threatened or Endangered Species, and Marine Mammals* in February 2006 to discuss the differences among stocks under the MMPA, fisheries stocks under the Magnuson-Stevens Act, and DPSs under the ESA (NMFS 2008). We concluded that DPSs can encompass multiple MMPA stocks because of the significance criterion of the DPS policy. DPSs can be identified at different hierarchical levels, and we determine the DPS configuration that makes the most sense after evaluating the best available scientific and commercial information and considering what management approach best furthers the purposes of the ESA as concerns that species.

Comment 5: One commenter recommended that we identify demographically independent populations as DPSs in the Southern Hemisphere because this has implications for candidacy for "delisting." The commenter asserted that the proposed rule omitted a number of DPSs that meet the DPS policy criterion of "discreteness." Such omissions, they asserted, have further implications for estimations of abundance, status, threats, and possibly extinction risk, if a DPS includes a number of demographically independent units. The commenter cited relatively recent studies (Barendse *et al.* 2011; Carvalho *et al.* 2014; Elwen *et al.* 2014; Ersts *et al.* 2011; Fossette *et al.* 2014; Kershaw 2015; Rosenbaum *et al.* 2014; Van Waerebeek *et al.* 2013) indicating statistically significant differences between known substocks within International Whaling Commission (IWC) stocks B and C (equivalent to the Gabon/Southwest Africa DPS and the Southeast Africa/Madagascar DPS). The commenter also recommended that the significance of F_{st} values (measure of genetic differentiation among groups) rather than the magnitude of these values be considered in delineating DPSs.

Another commenter asserted that NMFS' proposed designation of the East Australia DPS and Oceania DPS uses a different boundary between two breeding stocks (designated E and F by the IWC) than the boundary used by the IWC. This commenter stated that NMFS' proposal is therefore arbitrary and capricious. The commenter suggests that this boundary may or may not be adequately protective of animals using the Southern Hemisphere breeding areas east of the coast of Australia, which appear to have a mixing of a fairly robust stock with smaller and more fragile stocks. The commenter pointed to one publication (Garrigue *et al.*, undated), not cited by NMFS, that discusses the "known connections between eastern Australia and the westerly component of Oceania (New Caledonia, Tonga and New Zealand)." Clearly, this commenter asserted, some of these East Australia animals are mixing with breeding stocks included in the Oceania DPS. This commenter added that there has also been a documented interchange between humpbacks in New Caledonia and Eastern Australia at the same rate of exchange seen between New Caledonia and "the rest of" Oceania (*i.e.*, Vanuatu and Tonga) (Garrigue *et al.* 2011).

Response: We appreciate the citations for studies not included in the status review report or in the proposed rule. Some of these papers were published after the BRT had substantially completed drafting its status review report. We have carefully reviewed each publication, and all available information has now been considered for this final rule. While the substocks identified by the commenters represent demographically independent populations (as identified by the IWC), they do not meet the criteria of our DPS Policy (please see response to Comment 3). Criteria in the DPS policy indicate a population must be discrete from other conspecific populations *and significant* to the taxon to which it belongs. Our DPS determinations are case specific; we do not rely on a particular F_{st} value to indicate that populations are discrete from each other. Genetic differences among populations may be an indication of discreteness, but not necessarily an indication of significance. The BRT identified 15 humpback whale DPSs, and, as we explained in the proposed rule, we agreed with its conclusions in all cases but one (we combined two of the populations the BRT identified as separate into one DPS; please see response to Comment 43).

In the case of the East Australia and Oceania DPSs, the BRT reviewed the data and made a modification based on the best available data, as the ESA requires. We are aware that there are migrants between these DPSs. The DPS Policy criteria do not require complete separation between populations. In discussing the DPS configuration of Southern Hemisphere humpback whale populations, the BRT stated, ". . . significant differentiation was present among major breeding areas, and the estimated number of migrants/generation among areas was small compared to the estimated sizes of the populations" (Bettridge *et al.* 2015 at 24). The BRT interpreted the interchange between humpback whales in eastern Australia and New Caledonia as evidence that the whales share a migration corridor: "Breeding population in New Caledonia and east Australia are separate but some overlap between the populations occurs: some whales bound for New Caledonia use the same migratory pathways as some whales headed past east Australia" (Bettridge *et al.* 2015 at 25). The Garrigue *et al.* (2011) study cited by the commenter discusses only 7 matches between Eastern Australia and Oceania, which is a small number. Similar movements occur between the Hawaii and Mexico DPSs.

Further, the possibility that a population could be a candidate for "delisting" if it were identified as a DPS is not one of the DPS policy criteria and is not otherwise an appropriate consideration. The ESA requires that we base our listing determinations solely on the best available scientific and commercial data. In conclusion, we do not agree with the commenters that the Gabon/Southwest Africa DPS, the Southeast Africa/Madagascar DPS, East Australia DPS, or Oceania DPS should be further divided into smaller DPSs at this time.

Comment 6: One commenter stated that the ESA should be faithful to its name, and afford protection to taxonomic "species." Specifically, the commenter indicated that dividing the species into populations does not recognize the biological validity of a species concept.

Response: The ESA provides for identifying and listing different populations separately. As originally enacted, the statute defined "species" to include—in addition to taxonomic species—subspecies and "any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature." In 1978, the ESA was amended to replace that language with the current language regarding "distinct population segments" (DPSs) in the definition of "species" (Pub. L. 95–632 (1978)). Congress instructed us to exercise this authority with regard to DPSs ". . . sparingly and only when the biological evidence indicates that such action is warranted" (S. Rep. No. 96–151 (1979)). In 1996 the Services published the DPS Policy to define this term. Under the DPS Policy, if a population is both discrete from other conspecific populations and significant to the taxon to which it belongs, it is considered a DPS, and therefore, is a "species" under the ESA.

For humpback whales, we found that the purposes of the ESA would be furthered by managing this wide-ranging species as separate units under the DPS authority, in order to tailor protections of the ESA to those populations that warrant protection. Please see our response to Comment 3 for more details on the DPS Policy.

Comment 7: Several commenters stated that increasing abundance does not equate to full recovery, and that it is premature to delist any DPSs. One of these commenters suggested that the ESA does not allow us to identify DPSs for the purpose of delisting, citing the District of Columbia District Court in *Humane Society* v. *Jewell,* "the creation or initial designation of a DPS operates as a one-way ratchet to provide ESA protections to the covered vertebrates" (*Humane Society of the United States* v. *Jewell,* Case 1:13-cv-00186–BAH (D.D.C. Dec. 19, 2014). This commenter also cited *Friends of the Wild Swan* v. *U.S. Fish and Wildlife Service,* 12 F. Supp. 2d 1121, 1133 (D. Or. 1997), and *Defenders of Wildlife* v. *Norton,* 239 F Supp. 2d 9, 2 (D.D.C. 2002). They suggested that Federal courts have come to the same conclusion (quoting the *Friends of the Wild Swan* decision): "As USFWS's own population segment policy acknowledges, listing of population segments is a proactive measure to prevent the need for listing a species over a larger range—not a tactic for subdividing a larger population that USFWS has already determined, on the same information, warrants listing throughout a larger range." The commenter also stated that a DPS cannot be delisted until after it is first designated and after the mandatory recovery planning process is completed for that particular DPS and that to do otherwise would shortcut the process designed to ensure public comment and peer review. Finally, this commenter asserted that NMFS cannot conclude in a "5-year review" that a DPS can be simultaneously designated and delisted because this practice conflicts with the plain meaning and statutory requirements of section 4(c) of the ESA. This commenter asserted that we apparently recognized the lack of legal authority for our decision, so we claimed that we were not designating DPSs to delist them, but rather dividing the currently listed global population into 14 separate DPSs, downlisting two of those DPSs, and not proposing to list ten of those DPSs. This commenter further asserted that semantics cannot hide our actions, which simultaneously designate previously unlisted DPSs and strips the majority of those DPSs of all their ESA protections.

Response: We must base our listing determinations solely on the best available scientific and commercial data, after considering ongoing conservation efforts. Increasing abundance is one key indication that a species no longer warrants listing (*i.e.,* is not an "endangered species" or a "threatened species"), but it is not the only factor we considered, as we explained in our proposed rule (80 FR 22304; April 21, 2015 at 22316–22317). Rather, we have considered the factors under section 4(a)(1) in conjunction with the species' current demographic information. Further, it is important to understand the function of the status review report prepared by the BRT as it relates to our listing determinations. Convening a BRT to compile the best available information about the species' status is an optional process that helps inform, and does not supersede, the agency's listing determinations. The BRT does not make decisions in its report. We, NMFS, take into consideration the information provided by the BRT in the status review report, but must also independently evaluate that information in light of all factors that govern listing. We thus evaluated the information in the status review report and other information that became available to us and, after considering ongoing conservation efforts, we developed our listing determinations.

With regard to our approach to identifying DPSs, see *Rationale for Revising the Listing Status of a Species Under the ESA* above. As we explained in the proposed rule and reaffirm here, we have developed a rational approach that is consistent with both the statutory framework and our obligation to ensure that only those species that actually qualify for the protections of the ESA receive its protections. The commenter's suggested approach of first listing individual DPSs is untenable for the reasons we explained in the proposed rule and above: Where it is clear by direct application of the 4(a)(1) factors that a DPS does not presently qualify for listing, we have no authority to list it separately. Thus it is simply illogical to suggest we must list such a DPS in order to delist it. By evaluating the species comprehensively throughout its range and assigning listing status to each and every DPS, we have taken an approach that best fits the statutory framework and fulfills our obligation to adjust the original listing to reflect the species' actual circumstances. This approach differs significantly from that reviewed in *Humane Society of the United States (HSUS)* v. *Jewell,* 76 F. Supp. 3d 69 (D.D.C. 2014) (Western Great Lakes gray wolf), *appeal docketed,* No. 15–5041 (D.C. Cir. Feb. 19, 2015).

Further, we note that the DPS Policy does not set forth an interpretation of what procedures should be followed in reclassifying a species-wide listing into DPSs. However, the policy states that the policy is adopted "for the purposes of listing, *delisting, and reclassifying* vertebrates . . . ." 61 FR 4722 (emphasis added). Thus, it does not provide support for the view that the DPS authority may only be used to recognize and list populations. We thus respectfully disagree with characterizing the *Friends of the Wild Swan* case to suggest that the Services have no authority to consider replacing existing species-wide listings with DPS listings. We note that the facts here are not analogous to the agency action reviewed in that case, which involved a petition to list where FWS had initially concluded that listing of the entire species of bull trout was "warranted but precluded" but then, in a revised decision just a few years later, shifted to considering listing of individual DPSs without adequately explaining the basis for the shift in approach. Here, we have extensively explained that after more than 40 years of listing under the ESA, the scientific understanding of the population structure of humpback whales, as well as the variations in the degree of threats and rates of rebound, have reached the point that there is now a scientific basis to identify DPSs, and that listing each DPS at the appropriate level furthers the purposes of conservation management under the ESA. It is eminently reasonable that, in light of this more developed understanding, the agency has discretion to manage a population of 10,000 individuals differently than it does a population of less than 100 individuals.

To the extent this action may be said to constitute a delisting for the nine DPSs that will not be listed, it is consistent with our regulations at 50 CFR 424.11(d) because we would be delisting these DPSs on "the basis of recovery" (§ 424.11(d)(2)). As that phrase is used in the regulations, it means that "the best scientific and commercial data available indicate that [the species] is no longer endangered or threatened" (§ 424.11(d)(2)). We have determined, after application of the section 4(a)(1) factors, that some of the DPSs do not warrant listing—therefore, we find that they are no longer endangered or threatened. Delisting determinations are to be based on consideration of the same factors as listing determinations (50 CFR 424.11(b), (c)). The Services may directly apply the section 4(a)(1) factors at any time (not just in the context of a "5-year review") to determine whether a species continues to warrant protection under the ESA and are not bound to apply recovery criteria developed in a recovery plan. This is discussed further in response to the next comment.

Comment 8: Some commenters raised the issue of the intersection of this process with recovery planning. One commenter stated that on pages 59–60 (80 FR 22304; April 21, 2015 at 22317), our proposed rule explains that the original benchmarks for recovery established in the U.S. Final Recovery Plan for humpback whales (NMFS 1991) (*i.e.,* for populations to achieve 60 percent of pre-whaling abundance) were not prioritized in our status review. This commenter stated that data on progress toward meeting the Recovery Plan abundance goal are now available for the proposed DPSs in the Southern Hemisphere, as the result of a Comprehensive Assessment undertaken by the Scientific Committee of the IWC (IWC 2015). Although a similar effort for the North Atlantic produced ambiguous results (IWC 2001; IWC 2002), the commenter argues that this was likely due to the same uncertainties about stock structure and population parameters that are a potential concern in our status review. For the North Pacific, the commenter notes that there are now more data available on whaling catches (*e.g.,* Ivashchenko *et al.* 2013) as well as population size, structure, and trend (Baker *et al.* 2013; Barlow *et al.* 2011). The commenter recommended that we propose that the IWC undertake an assessment of the recovery status of stocks in that ocean.

Response: As we have explained in the proposed rule, it is clear that a recovery plan represents one potential pathway to improving the status of the populations addressed in the plan, but does not establish a binding or the only pathway for determining when a species no longer qualifies for protection under the ESA. The criteria set forth in a recovery plan are non-binding proxies for the section 4(a)(1) factors, which are the governing considerations that must be applied in any determination regarding the listing status of a species. The Services (as the designees of the Secretaries of Commerce and of the Interior) retain authority to directly apply the section 4(a)(1) factors at any time to determine whether a species continues to warrant protection under the ESA. The Services are, thus, not bound to apply recovery criteria developed in a recovery plan (*Friends of Blackwater* v. *Salazar,* 691 F.3d 428 (D.C. Cir. 2012)). This is particularly true where adequate data do not exist to determine if the criteria are met, as is the case here. As we discuss below, we find that it is not possible on the basis of available information to determine if the overall targets or interim goals of the plan for those populations the recovery plan focused on are met. Further, we find that even if the data were available they would not necessarily demonstrate that the relevant DPSs should or should not continue to be listed.

At the outset, one must note that the 1991 Recovery Plan did not address all populations of humpback whale; at the time the humpback was listed globally with no recognized DPSs. The plan focused only on those populations that occur in the North Atlantic and North Pacific. The relevant DPSs implicated by the plan are: West Indies, Cape Verde Islands/Northwest Africa, Western North Pacific, Hawaii, Mexico, and Central America DPSs. Thus the plan simply would not apply to the majority of the DPSs we now identify.

With regard to using the original benchmark for recovery (populations achieving 60 percent of pre-whaling abundance), where available, estimates of historical abundance can provide useful context for setting recovery goals and are likely to be indicative of abundance levels associated with low extinction risk. However, populations may also be at low risk of extinction at abundance levels below historical levels, and accurate estimates of historical abundance are not essential for evaluating extinction risk. In the case of humpback whales, the 1991 recovery plan noted that estimates of historical abundance were highly uncertain and therefore specific numerical targets based on those goals were not provided in the plan. That situation remains true today, despite additional efforts to summarize historical abundance. Because of this uncertainty and because a comparison of current to historical abundance is not necessary for an evaluation of extinction risk, the BRT elected to focus its extinction risk analysis primarily on current abundance and trends relative to benchmarks associated with low risk (See section III/C of Bettridge *et al.,* 2015).

One commenter suggested that we should be required to develop a recovery plan particular to each DPS in order to preserve opportunities for public comment and peer review. The development of recovery plans under section 4(f) of the ESA is a non-regulatory process that nevertheless includes receiving and considering public comment. The Services solicit expert input and peer review of information used in developing recovery plans (*See* "Endangered and Threatened Wildlife and Plants: Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities." 59 FR 34270 (July 1, 1994)). The comment does not cast doubt on our approach here. The ESA does not require that a recovery plan must be developed before a determination can be made that a species no longer qualifies for protection under section 4(a)(1). Moreover, an opportunity for public comment and peer review of the information underlying our determinations *has been* made available in connection with our proposed listing rule.

With regard to the recommendation that we propose that the IWC undertake an assessment of the recovery status of stocks in the North Pacific Ocean, we support any efforts to estimate population abundance of humpback whales. However, recommending that the IWC undertake an assessment of the recovery status of stocks in the North Pacific is beyond the scope of this action. The ESA requires that we base our determinations on the best *available* scientific and commercial information. This standard does not require conduct of new studies, and because we have sufficient data to support our proposed determinations, there is no reason for us to defer implementing those decisions until additional information becomes available. If additional information becomes available at a later time that the commenter believes should affect our determinations, a petition for consideration of the information could be filed. In addition, we will continue to monitor all DPSs (those that will not be listed will be monitored under the Monitoring Plan that we are issuing today (see Monitoring Plan section below), and the listed DPSs are reviewed periodically through the 5-year review mechanism).

Comment 9: Several commenters stated that population numbers of humpback whales were much higher historically, and humpback whales will not be recovered until they reach pre-whaling numbers (*i.e.,* historical abundance, or carrying capacity), and they should remain listed as endangered. One commenter argued that without an agreed upon and established historical population baseline, it is impossible to determine if humpback whales in the North Pacific qualify for delisting. In addition, the commenter noted that some geographic areas where humpback whales used to be observed do not appear to have been recolonized (Gregr *et al.,* 2000). The commenter stated that Fleming and Jackson (2011) concluded that, despite observed positive population trends over the past decade, the California-Oregon population likely remains well below pre-exploitation size.

Response: The suggestion that humpback whales must remain listed until they reach pre-whaling numbers is inconsistent with the relevant legal standards under the ESA. A listing determination may be made at any time by directly applying the section 4(a)(1) factors (please see our response to Comment 8). Whether a species qualifies for listing under the ESA depends on whether the species is in danger of extinction or likely to become so within the foreseeable future as a result of one or more of the factors described in section 4(a)(1) (See 16 U.S.C. 1533(a)(1)). If a species is viable at its current population levels into the foreseeable future, it is irrelevant whether that population level is or is not close to its historical levels.

Recovery under the ESA does not mean a species has attained its historical abundance. It simply means that a species is no longer in danger of extinction throughout all or a significant portion of its range or likely to become so within the foreseeable future.

As we stated under *Rationale for Revising the Listing Status under the ESA* and in our response to Comment 8, to the extent that our action may be found to constitute a delisting for the nine DPSs not proposed for listing under the ESA, it is consistent with 50 CFR 424.11(d) because we would be delisting these DPSs on "the basis of recovery" (§ 424.11(d)(2)). As discussed in the proposed rule (80 FR 22304; April 21, 2015), we initially determined, after evaluating abundance and trend information, the ESA section 4(a)(1) factors, and ongoing conservation efforts, that ten humpback whale DPSs did not warrant listing; therefore, we found that they were not endangered or threatened. The Services have authority to apply ESA section 4(a)(1) factors at any time, and we now finalize our determination that nine of the DPSs do not warrant listing.

Comment 10: Several commenters noted that NMFS acknowledges that surveys of humpback whales have not spanned 20 years since issuance of the 1991 recovery plan and data are not available to evaluate the status of humpback whale populations against these goals. Therefore, one commenter added, the BRT focused its biological risk analysis primarily on recent abundance trends and whether absolute abundance was sufficient for biological viability. This commenter asserted that there are a number of populations for which there are 20 years of data against which to measure growth and, as such, it is inappropriate to disregard the recovery plan.

The commenter also stated that NMFS references the 3.5 percent population growth rate from the recovery plan for some southern ocean DPSs, though the plan focused only on the North Pacific and North Atlantic populations. This commenter also suggested that there are 20 years of data indicating that the West Indies DPS has not met recovery plan targets and the agency has instead proposed to entirely remove the protections of the ESA. One of the other commenters noted that it is obvious that in the past 20 years, the North Pacific humpback whale population, on an ocean-basin scale, has achieved the interim goal of doubling population size. Another commenter stated that, given that we initiated the ESA status review process just 2 years prior to the two-decade threshold, the commenter believes that it would still be worth evaluating progress toward that management goal of doubling the population within 20 years.

Response: A recovery plan is not binding on the Services and does not represent the only path toward a determination that a species no longer warrants protection under the ESA (please see our response to Comment 8). While estimated population growth rate has been calculated for six of the 14 DPSs (but only two of the DPSs in the North Pacific and North Atlantic, which was the focus of the 1991 Recovery Plan) based on data since the Recovery Plan was issued, we do not think the available data allow directly evaluating whether the Recovery Plan criteria have been met. The plan was a forward-looking document that specified that the doubling of the population size was to be over a 20-year period from that point in time ("within 20 years"); it would not make sense to evaluate progress toward a doubled population using data collected before the plan was even developed. As we stated in our proposed rule, surveys from which abundance estimates could be estimated in order to estimate population growth rate were not separated by 20 years or conducted continuously over that period. To achieve a doubling of the population would require a 3.5 percent average annual growth rate to occur over the course of 20 years; if the trend is only documented for less than 20 years, this does not establish that the population is on track to doubling.

Further, the BRT concluded (personal communication, Paul Wade, NMFS, Northwest Fisheries Science Center, BRT member), and we agree, that the Recovery Plan goal of doubling the population within 20 years is not an appropriate proxy for applying the section 4(a)(1) factors in the context of current abundance for evaluating extinction risk. One reason this metric is not an adequate proxy for applying the section 4(a)(1) factors is that if a population approaches carrying capacity (K), the growth rate will be expected to decrease. A population could have recovered to K, but this would only be known if the entire 20-year period was documented, including the early time period with the faster growth rate. This is why the BRT decided to rely on absolute population size as indicating the relative extinction risk of each DPS due to small population size alone, with trend information as supplemental.

We referenced the 3.5 percent population growth rate for some of the DPSs in the Southern Hemisphere, even though the 1991 recovery plan that recommended an interim goal of doubling the population size (which translates to a 3.5 percent average annual population growth rate) focused on humpback whales in the North Pacific and North Atlantic. However, we did not measure population growth rate against that 3.5 percent target; we included it only as a point of reference as part of our summary of the best available scientific and commercial information. The BRT and we evaluated whether growth rates were increasing, stable, or decreasing as part of the extinction risk analysis, not whether they were greater than or equal to 3.5 percent. To be clear, then, whether a specific DPS' growth trend was at or above the interim recovery goals set out for certain populations in the 1991 Recovery Plan did not play a role in our determinations.

Comment 11: The State of Washington indicated that individuals of the Mexico DPS comprise the majority of humpback whales feeding off Washington. A threatened status for the Central America DPS will encourage NMFS and others to continue efforts to mitigate threats off the west coast. Another commenter expressed concern that creation of the DPS construct complicates management and dilutes the effectiveness of any plan as a species saving effort. Another commenter stated that the status review report did not include information that allows understanding of the proportion of each stock/DPS along the eastern Pacific that uses the North American feeding areas (*i.e.,* from California through the Aleutians) such that takes might be assigned proportionately to a stock on the basis of their proportionate use of the area as NMFS has done in its management of lethal takes of mixed species of pilot whales in the Atlantic.

This same commenter stated that, even if NMFS determines that the Mexico and Hawaii DPSs are recovered, NMFS must retain ESA protections for these DPSs because of similarity of appearance. This commenter noted that mixing of breeding stocks in a single feeding area complicates any threat analysis and will confound determination of stock identity when anthropogenic mortalities that occur in a mixed feeding area need to be attributed to the appropriate stock. This commenter pointed to NMFS' treatment of progeny of naturally spawned adults of west coast salmon (all progeny are protected as "naturally spawned" because offspring of hatchery-born salmon adults cannot easily be distinguished from their wild counterparts (70 FR 37,160; June 28, 2005, at 37,166)) to show how NMFS ensures appropriate levels of protection for listed species where there is overlap between listed and non-listed populations.

The commenter also attempted to draw support for protecting all DPSs from the provisions of the statute and regulations governing recognition of experimental populations, citing: (1) 16 U.S.C. 1539(j)(1) and 50 CFR 17.80(a) ("where part of an experimental population overlaps with a natural population of the same species . . . specimens of the experimental populations will not be recognized as such while in the area of overlap"; (2) *United States* v. *McKittrick,* 142 F.3d 1170, 1174–75 (9th Cir. 1998) ("When experimental and nonexperimental populations overlap—even if the overlap occurs seasonally—section 10(j) populations lose their experimental status."); and (3) H.R. Rep. No. 97–567 at 33 (1982), reprinted in 1982 U.S.C.C.A.N. 2807, 2833 (legislative history of section 10(j) stressing that "in the case of the introduction of individuals of a listed fish species into a portion of a stream where the same species already occurs, the introduced specimens would not be treated as an 'experimental population' separate from the non-introduced specimens").

While this commenter believes that delisting or downlisting of any DPS is inappropriate at this time, if a downlisting occurs and NMFS does not retain ESA protections for all DPSs, this commenter recommends that mortality or injury in a feeding area with mixed breeding stocks be attributed to the listed DPS with the most protected status unless it can definitively be determined that it does not belong to that DPS.

Response: Once a DPS is identified, it is considered a species under the ESA. Listing DPSs separately can complicate management when DPSs of different status mix. In particular, when listed species mix with non-listed species, it is important to ensure that the listed species is protected. We have concluded in this final rule that the Mexico DPS is threatened instead of "not warranted," and the Central America DPS is endangered instead of threatened (please see the Mexico DPS and Central America DPS sections for our rationale). We are extending the section 9 prohibitions to threatened humpback whales, which at this time includes the Mexico DPS, and these same prohibitions are automatically applied to the endangered Central America DPS. Where humpback whales from different DPSs mix on feeding grounds, such as is the case off the coast of Alaska where the non-listed Hawaii DPS mixes with the listed Western North Pacific and Mexico DPSs, we will continue to work with partners to mitigate threats to all humpback whales, regardless of their ESA listing status, because all whales remain protected under the MMPA. We recognize the need for an approach that will allow us to determine which DPSs have been affected by directed or incidental take or may be affected by Federal actions subject to consultation under section 7. As we have for other species (*e.g.,* Pacific salmon), we will likely use a proportional approach to indicate which DPSs are affected by any takes based upon the best available science of what DPSs are present, depending on location and timing where take occurred. We have not finalized this approach, but it will be fluid and based upon the best available science as it changes with increased understanding.

With regard to the commenter's suggestion that we protect the Hawaii and Mexico DPSs based on similarity of appearance, we disagree that the authority to list based on "similarity of appearance" should be invoked here. The statute affords discretion to extend protections to a non-imperiled species based on similarity of appearance only where all three criteria of ESA section 4(e) are met. Specifically, section 4(e) of the ESA provides that the Secretary "may, by regulation of commerce or taking, and to the extent he deems advisable" treat any species as an endangered species or threatened species even though it is not listed under section 4 of the ESA if he finds that:

> (A) Such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;
>
> (B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and
>
> (C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this chapter.
>
> 16 U.S.C. 1533(e).

This authority allows the Services to treat a species that is not itself imperiled as a listed species for certain purposes in very limited situations. Criterion A under section 4(e) of the ESA is met for humpback whales because humpback whales from different DPSs are not readily distinguishable in areas where two or more DPSs overlap. Criteria B and C are not met. There is no incentive for people to "take" humpback whales and claim they thought they were taking a different species, because there is no (legal) trade in those products. Therefore, the effect of this substantial difficulty in assigning a humpback whale to a particular DPS does not pose an additional threat to the listed DPS. And finally, treating the unlisted DPS as a listed DPS will not facilitate enforcement of laws against take of humpback whales from a listed DPS. Therefore, we did not propose to protect non-listed DPSs of the humpback whale based on grounds of similarity of appearance to listed DPSs and we do not find a basis to do so in this final rule. However, we note that we changed our listing determination for the Mexico DPS, and, as noted above, we are listing it as a threatened species under the ESA and extending the section 9 prohibitions to the DPS so that it will be protected under the ESA.

Finally, in response to the comments citing to the statutory and regulatory provisions of section 10(j) and related case law, we note that the authority to designate experimental populations is completely separate from making listing determinations under section 4. That authority is designed to allow the Services to introduce or reintroduce species to areas where they do not currently occur. We are not proposing to take such an action here, and there is no basis to conclude that Congress intended the specific provisions relating to the 10(j) authority to apply more broadly. Had Congress intended that result, it could have chosen to do so explicitly, but it did not. Thus the portions of the comments relating to 10(j) are simply not relevant or informative here.

Comment 12: One commenter noted that humpback whales migrate between the equator and the poles and that, therefore, no population of whales around the globe is entirely protected within the borders of any one country. Regardless of their protected status in the United States, this movement leaves protected animals vulnerable to hunting as they migrate across the borders of whaling countries. Several commenters argued that delisting of any humpback whale populations by the United States will weaken the perception of their protected status, and signal to other countries that the United States approves and encourages hunting humpback whales, particularly in waters beyond the exclusive economic zone (EEZ). Another commenter added that the overlap in ranges of many populations of humpback whales would provide a perfect excuse for whaling nations to hunt protected populations. The commenter indicated there would be no way to prove whalers had violated the protection, as there would be much confusion as to which population they were actually hunting in the overlapping territories. Another commenter asserted that Japan, Norway, Iceland, former Soviet Republics, and others have gained votes and allies on the IWC to open up hunting to the larger baleen whales. The commenter believes that tropical nations, where humpbacks congregate to calf and mate, can be incentivized for votes at the IWC to support hunting of humpbacks in their waters. Many other commenters stated that whaling would start again if humpback whales were no longer protected under the ESA.

Response: We are confident that whaling will not resume as a result of not including nine humpback whale DPSs on the ESA List of Endangered and Threatened Wildlife. The IWC's commercial whaling moratorium implemented by the IWC in 1986 remains in effect as a needed conservation measure for whale stocks worldwide. We have no indications that the *status quo* will be changed, and thus conclude on the basis of the best available scientific and commercial information that the commercial whaling moratorium will continue to be in effect for the foreseeable future. In addition, the humpback whale is currently an Appendix I species under the Convention for International Trade in Endangered Species of Wild Fauna and Flora (CITES), which restricts international trade and provides an additional layer of protection against resumed whaling. Regarding scientific whaling, there are currently no countries hunting humpback whales for scientific research and we have no information to indicate there are plans to do so in the foreseeable future. Regarding subsistence whaling, we have no reason to believe that the small number of West Indies DPS humpback whales killed for subsistence (see our response to Comment 42) will increase because the DPS is not listed.

Comment 13: Many commenters asserted that it is premature to remove ESA protections from some humpback whale populations, as the research needs to be updated (*e.g.,* address questions about population abundance, trends and risks), and a precautionary approach should be taken to protecting these iconic animals. One commenter asserted that NMFS seeks to completely delist from the ESA some of the 14 populations it has identified, relying largely on a "speculative" approach using qualitative information that is contrary to the clear mandates of the ESA ("The obvious purpose of the requirement that agencies "use the best scientific and commercial data available" is to ensure that the ESA not be implemented haphazardly, on the basis of speculation or surmise" (*Bennett* v. *Spear,* 520 U.S. 154 (1997)). This commenter asserted that we should not rely on qualitative data to strip ESA protections, as "[T]his is highly risk prone and an affront to the "institutionalized caution" Congress embodied in the ESA" (*Tennessee Valley Authority (TVA)* v. *Hill,* 437 U.S. 153 (1978)). Several other commenters said that we should use the precautionary principle when there are so many uncertainties in the scientific data (*e.g.,* unknown trends for several DPSs; unknown effects of climate change, contaminants, and harmful algal blooms (HABs); transfer rates of contaminants to calves; chronic, sublethal impacts of contaminants). Another commenter asserted that NMFS' proposed rule was not based on the best available science as NMFS failed to consider a number of scientific reports published after 2011.

Response: We are required to base our decisions solely on the best available scientific and commercial data, a standard that does not require certainty. The use of qualitative data is appropriate if they are the best available. We have quantitative abundance estimates for each humpback whale DPS, although some of these estimates are associated with large confidence intervals (meaning that there is relatively less certainty as to their accuracy when compared to estimates with small confidence intervals). While we have quantitative trend information for some DPSs, we do not have it for others, though for most we have at least a qualitative estimate. Regardless of whether the data are quantitative or qualitative, we must use our best professional judgment to determine whether a species meets the definition of an "endangered species" or a "threatened species." When new data become available, we can reinitiate a status review on our own or in response to a petition. New information can also be evaluated during the 5-year reviews that are required under ESA section 4(c)(2).

With regard to whether the "precautionary" approach should be applied and whether that should lead to retaining the species' current listing status for each DPS, section 4 of the ESA requires that we base listing determinations solely on the best available scientific and commercial data. It is well established that this standard does not require certainty in the data supporting the agency's decision but instead charges NMFS to apply professional judgment to identify significant uncertainties and determine how to proceed in light of them. Moreover, where the fundamental question of whether a species meets the foundational tests for requiring the ESA's protections under section 4(a)(1) is at issue, the context is significantly different from cases arising under other provisions of the ESA, such as section 7 consultations, where legislative history and case law indicate that significant uncertainties should be resolved against action agencies. Thus, the commenter's citation to *TVA* v. *Hill* (437 U.S. 153 (1978)) is not pertinent. Congress vested NMFS "with discretion to make listing decisions based on consideration of the relevant statutory factors using the best scientific information available" (*Trout Unlimited* v. *Lohn,* 645 F. Supp. 2d 929, 947 (D. Or. 2007)).

Each of our determinations is supported by the best available scientific and commercial information, and we have evaluated the data for each particular DPS carefully and deliberately. While there are some uncertainties in the data—as there almost always are in every case of scientific information—we have identified the relevant, significant uncertainties, discussed them, and explained our decisions in light of them. Where those uncertainties are particularly significant, we have erred on the side of retaining protections for the DPS (and, in the case of the Western North Pacific, Mexico, and Central America DPSs, have increased the level of protection from that in our proposed rule). Indeed, one commenter expressed the opposite concern from that raised by this commenter, accusing NMFS of "abusing" the precautionary approach by listing the Western North Pacific DPS (see response to Comment 44).

In response to the comment that the proposed rule did not rely on the best available information because we had not yet considered certain scientific papers published after 2011, this comment fails to take into account the important information-gathering and consideration that takes place during the public comment period as well as the iterative nature of agency decisionmaking. In all scientific decisionmaking, there must come a point in time where the search for new information pauses while the information already possessed is analyzed and reviewed. It would be unreasonable to expect that the BRT was searching the literature during the entire time between initiation of the status review and issuance of the final status review report. The BRT was presented with a draft compilation of available literature when it first convened, and the team members were tasked to update that compilation at a point prior to completion of the draft report. Once the BRT had substantially completed its draft report, NMFS reviewed the BRT findings and developed the proposed rule. Our proposed rule invited comment and submission of any additional, relevant information for consideration in development of the final rule. This iterative process ensures that all available information is considered for the final rule.

Further, the Monitoring Plan that we are implementing for those DPSs that do not warrant listing helps ensure these DPSs are managed appropriately in light of all threats, including those that may worsen. For any DPSs that are listed, monitoring is as a matter of course, pursuant to the obligation to periodically review the status of these species (ESA section 4(c)(2)). Finally, though not directly relevant to our listing determinations, we note that the non-listed DPSs will continue to be protected under the MMPA.

Comment 14: Many commenters requested that we keep all humpback whale populations listed under the ESA, as MMPA protection may not be effective if "delisting" is perceived as "no longer protected." These commenters said that population numbers may have increased, but they may not stay at a safe population size because of noise, water pollution, climate change, vessel collisions, and habitat destruction.

Response: Regardless of whether they are also listed under the ESA, marine mammals are protected under the MMPA. The MMPA's provisions include prohibitions on take in U.S. waters and by U.S. citizens on the high seas. We based our listing determinations on the best available data, including an evaluation of available information on threat levels. Where we are not listing a DPS as threatened or endangered, it is because we have determined that, based on the best available data, the DPS is not in danger of extinction throughout all or a significant portion of its range or likely to become so within the foreseeable future. We discuss the related issue of whether the previously listed populations retain "depleted" status under the MMPA, below.

Comment 15: Canada's Department of Fisheries and Oceans (DFO) commented that, in 2003, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) assessed the western North Atlantic humpback whale population as "not at risk," which is consistent with NMFS' proposed designation for the West Indies DPS from which the Canadian western North Atlantic population derives. In 2003, COSEWIC assessed the North Pacific humpback whale population as "threatened," and in 2005 the population was listed as such under Canada's Species at Risk Act (SARA). COSEWIC reassessed this population as "special concern" in 2011 and confirmed the "special concern" status of this population in 2013. In response to this "special concern" assessment, the North Pacific humpback whale population is being considered for reclassification as "special concern" under SARA. Humpback whales from the proposed Hawaii, Mexico, and Central America DPSs contribute to the population that frequents Canadian waters. The proposed "not at risk" status for the Hawaii and Mexico DPSs is lower than the current (threatened) or potential (special concern) SARA status of the Canadian North Pacific humpback whale population. Therefore, the proposed "not at risk" designation for the Hawaii and Mexico DPSs would not offer the species the current or potential level of protection in Canada. The proposed status of "threatened" for the Central America DPS aligns with the North Pacific Humpback Whale current designation as "threatened" under SARA.

Response: We appreciate the detailed information provided by Canada's DFO. While it may appear that the status categories under the ESA ("endangered," "threatened," "candidate," and "not warranted") correlate to those under the SARA ("endangered," "threatened," "special concern," and "not at risk"), the ESA and SARA use different criteria to assess the status of species. Therefore, a species listed as "threatened" under the ESA might not be at the same level of extinction risk as one listed as "threatened" under SARA. However, we recognize that the Hawaii DPS will not be protected under the ESA in U.S. waters or on the high seas (with respect to U.S. citizens) and it will be protected in Canadian waters (until the Canadian North Pacific population is reclassified as "special concern," if this happens). All humpback whales will continue to receive significant protection from taking under the MMPA in U.S. waters and by U.S. citizens on the high seas. And while we did not propose to list the Mexico DPS as threatened or endangered and we proposed to list the Central America DPS as threatened, we are now listing the Mexico DPS as threatened and the Central America DPS as endangered (please see the Mexico DPS and Central America DPS sections). Canada's DFO is correct that the Central America DPS will receive essentially the same protections under both the ESA and SARA. The Mexico DPS will, too, because we are extending the section 9 prohibitions to threatened humpback whales.

Comment 16: Several commenters expressed support for our decision to list the Western North Pacific DPS and Central America DPS (as threatened) and to list the Arabian Sea and Cape Verde Islands/Northwest Africa DPS (as endangered).

Response: We acknowledge the commenters' support. Please see the Western North Pacific DPS, the Mexico DPS, and the Central America DPS sections for our rationale for listing the Mexico DPS as threatened and for reaching the determination of "endangered" for the Western North Pacific and Central America DPSs.

Comment 17: One commenter stated that NMFS' proposal is not based on the best available science because it fails to properly define and analyze the risk of extinction in the foreseeable future. The commenter asserted that there are two problems with our approach to weighing extinction risk: (1) Improper use of a 60-year timeframe for risk assessment; and (2) failure to properly apply the chosen 60-year time frame. The commenter stated that, in prior listing decisions and recovery plans for whale species, NMFS consistently uses longer time frames to evaluate extinction risk, generally 100 years. In the case of both North Atlantic and North Pacific right whales, the commenter argued, 100 years was used, and this was based on conclusions from a large whale recovery criteria workshop (Angliss *et al.* 2002). The commenter suggested that NMFS provided no explanation or justification for the foreseeable future used in this rulemaking. The commenter suggests that, despite claiming to analyze future impacts, the threats analysis references "current" risks, but contains no analysis of the risk of extinction posed by reasonably foreseeable future impacts. The commenter also suggests that the extinction risk approach improperly "raised the bar" for the threatened category and cites to the unreported decision in *Western Watersheds Project* v. *Foss,* No. CV–04–168, 2005 U.S. Dist. LEXIS 45753, *49 (D. Idaho Aug. 19, 2005) for the proposition that it is inappropriate to evaluate "high risk of extinction" over the "foreseeable future." The commenter states that this focus on current threats also fails to recognize that, while the definition of a "threatened" species is necessarily forward-looking, so, too, is the definition of an "endangered species." Simply put, a species "in danger" of extinction is not currently extinct. Rather, it is a species facing a risk of extinction in the future.

Response: The commenter's suggestion that it is improper to use different time periods for different listing determinations or recovery plans (the latter of which are not binding regulatory documents) misunderstands the nature of the determination of "foreseeable future." As we explained in the proposed rule and summarized in the introductory paragraphs of this final rule, the concept of the "foreseeable future" must be determined and applied specifically for each species undergoing a status review or listing determination under the ESA in order to consider whether a species is a threatened species. *See, e.g., In re Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 794 F. Supp. 2d 65, 95 (D.D.C. 2011) ("As with the term 'likely,' Congress has not defined the term "foreseeable future" under the ESA . . . ."). Instead of using an inflexible quantitative standard, "a 'foreseeable future' determination is made on the basis of the agency's reasoned judgment in light of the best available science for the species under consideration." *id.*

In its status review report, the BRT determined that 60 years was the appropriate time period over which it could reasonably predict the humpback whale's responses to threats. We agreed with the BRT's rationale and thus adopted the 60-year period as the "foreseeable future" for this listing determination. Nothing the commenter cites undercuts the basis for the foreseeable future identified for this rulemaking. The 1991 Recovery Plan for the Northern Right Whale (*Eubalaena glacialis*) (NMFS 1991) included several criteria for reclassification from "endangered" to "threatened," one of which was that the species has less than a 1 percent probability of going extinct in 100 years. Similarly, it included several criteria for delisting, one of which was that the species has less than a 10 percent probability of becoming endangered in 25 years. The timeframes of 100 years and 25 years as used in the large whale recovery criteria workshop referred to by the commenter are part of a population viability analysis (*x* percent chance of extinction in *y* years); they do not refer to the foreseeable future as used under the ESA. As explained above, the "foreseeable future" is generally defined for each species based on how far into the future we may reliably project individual threats as well as the species' response to those threats. Here, for the reasons already explained, 60 years was articulated by both the BRT and NMFS as the appropriate timeframe.

Even if equivalency in "foreseeable future" determinations among species with similar life history traits was required, there is no basis to compare the foreseeable future for humpback whales with any "foreseeable future" for the Cook Inlet beluga whale, North Pacific right whale, and North Atlantic right whale because we did not define foreseeable future periods for any of the latter three species. Our extinction risk analyses for these species concluded that these species were all endangered; thus, we did not need to define foreseeable future for these species; the "foreseeable future" concept is relevant only to consideration of "threatened" status, which is unnecessary where we have determined the species meets the higher standard for "endangered." The 100-year period the commenter refers to is simply one of two timeframes over which we estimated the risk of extinction for the Cook Inlet beluga whale (the other timeframe was 300 years) in the context of a population viability analysis. Neither we nor the BRT mentioned a 100-year time period in any context in the North Atlantic and North Pacific right whale status reviews, proposed listing rule, or final listing determination. There is no requirement that the same time period used to forecast effects as a matter of scientific modeling must be chosen as the "foreseeable future" for the listing determination for that species. Determining the appropriate "foreseeable future" for a listing decision involves the professional judgment of the resource managers, who must determine at what point it is no longer reasonable to make official predictions about threats and the species' response. Thus, while a particular period may have been chosen to underlie a PVA in order to generate useful information, that same period will not necessarily be equivalent to the foreseeable future adopted for the ultimate listing decision. Indeed, it is not required that the foreseeable future be quantified as a specific number of years at any point for any listing decision.

Recovery criteria remain case-specific. Further, there is no requirement under the ESA to define extinction risk in quantitative terms; there is "nothing in the text or structure of the statute to compel the conclusion that Congress intended to bind the agency to a particular formula for determining when a species is 'in danger of extinction.'" *In re Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 748 F. Supp. 2d 19, 27 (D.D.C. 2010). Rather, "[t]he overall structure of the ESA suggests that the definition of an endangered species was 'intentionally left ambiguous,'" and "Congress broadly delegated responsibility to the Secretary to determine whether a species is 'in danger of extinction' in light of the five statutory listing factors and the best available science for that species." *Id.*

Under the ESA, in order to list a species as threatened, we must conclude that the species is likely to become in danger of extinction throughout all or a significant portion of its range within the foreseeable future. For the humpback whale, the BRT and NMFS defined the foreseeable future as 60 years. The classifications used by the BRT for its extinction risk assessment appropriately maintained the temporal distinction between risk that currently exists and risk that will become manifest within the foreseeable future. Here, the BRT specifically defined the "high risk of extinction" category to measure near-term risk, while the "moderate risk of extinction" category incorporates the foreseeable future (Bettridge *et al.* 2015 at 67–68). The commenter is thus flatly incorrect in the suggestion that the BRT or NMFS conflated the threatened category with the endangered category, and the citation to *Western Watersheds Project* v. *Foss* is inapposite.

When we reviewed the BRT's extinction risk conclusions, and then evaluated ongoing conservation efforts as we are required to do, we agreed with the BRT's conclusions. For those DPSs that the BRT determined were at "moderate risk of extinction," we generally concluded that the DPSs were likely to become endangered over the next 60 years (threatened). For those DPSs that the BRT concluded were at "high risk of extinction," we generally concluded that the DPSs were in danger of extinction currently (endangered). (However, for this final rule we have applied greater levels of protection than the BRT votes would predict for three DPSs. Please see our rationale for reconsidering our listing determinations for the Western North Pacific (Western North Pacific DPS section), Mexico (Mexico DPS section), and Central America (Central America DPS section) DPSs.) We agree with the commenter that the definitions of "threatened" species and "endangered species" are forward looking (*i.e.,* a species "in danger" of extinction is not currently extinct; rather, it is a species facing a risk of extinction at an undefined point in the future). We did consider that the threats we can reliably predict will act on the species within the foreseeable future.

Comment 18: One commenter stated that the ESA is enforced in U.S. waters, and that other countries recognize and respect this and may assign statuses under their acts. The commenter asserted that other status classifications, such as the International Union for Conservation of Nature (IUCN), are likely to be removed in response to removing humpback whales from the ESA list.

Response: The ESA is enforced in U.S. waters and on the high seas for persons subject to U.S. jurisdiction. The ESA requires us to make our determinations in accordance with the best available scientific and commercial information without regard to what other countries might do with regard to conservation status of species under their jurisdiction. With regard to IUCN, species classifications under the ESA and the IUCN Red List are not equivalent. Data standards, criteria used to evaluate species status, and treatment of uncertainty are not considered similarly, and the legal effect is not the same.

Unlike the ESA, the IUCN Red List is not a statute and is not a legally binding or regulatory instrument. It does not include legally binding requirements, prohibitions, or guidance for the protection of threatened (*i.e.,* critically endangered, endangered, or vulnerable) taxa (IUCN 2012). Rather, it provides taxonomic, conservation status, and distribution information on species. The IUCN Red List is based on a system of categories and criteria designed to determine the *relative* risk of extinction (*http://www.iucnredlist.org/about/introduction*), classifying species in one of nine categories, as determined via quantitative criteria, including population size reductions, range reductions, small population size, and quantitative extinction risk. Whether the IUCN removes status classifications as a result of an ESA listing determination is not relevant to the ESA's requirement that we base listing determinations solely on the best available scientific and commercial data.

Having said this, the IUCN classified the humpback whale as "least concern" in 2008.

Comment 19: Several commenters asserted that we underestimated the risks of oil spills to humpback whales.

Response: We do not agree that we underestimated the risks of oil spills to humpback whales. We discussed this risk in our proposed rule (80 FR 22304; April 21, 2015 at 22321), concluding that long-term ingestion of pollutants, including oil residues, could affect reproduction, but that data are lacking to determine how oil may fit into this scheme for humpback whales. The effects of oil spills are generally associated with low probabilities of occurrence, and are generally localized in nature. Documented impacts from these activities in the past have been minimal. Therefore, we do not believe that we have underestimated the risks of oil spills, and we have accurately portrayed the effect of oil and gas activities on the status of the species within the foreseeable future.

Comment 20: One commenter noted that humpback whales off Southern California and Asia are known to have high levels of dichlorodiphenyltrichloroethane, polychlorinated biphenyls, and other persistent organic pollutants (Elfes *et al.* 2010).

Response: We considered Elfes *et al.* (2010), but when this information is combined with all of the other information presented on contaminants in the status review report (Bettridge *et al.* 2015 at 41–42), we agreed with the BRT that the severity of this threat was low in all regions, except where lack of data indicated a finding of unknown. Even where the extent of risk is unknown, it is not enough to place any DPS in danger of extinction presently or within the foreseeable future. Regardless, we are listing the Western North Pacific and Central America DPSs as endangered and the Mexico DPS as threatened for other reasons (see the Western North Pacific DPS, Mexico DPS, and Central America DPS sections for our rationale). These are the DPSs that occur off Southern California and Asia.

Comment 21: One commenter stated that the ESA section 4(a)(1) factors must be addressed before a species can be delisted. For example, the commenter noted, contaminants were given a risk score of "low" or "none" for both the Mexico and Central America DPSs, both of which are acknowledged to feed off the coast of California. However, the commenter continued, the text of the status review report cites data indicating that "contaminant levels have been proposed as a causative factor in lower reproductive rates found among humpback whales off Southern

California." Another commenter pointed to the increased number of fishing gear entanglements off California, Oregon, and Washington in 2015 as cause for concern for the Mexico and Central America DPSs.

Response: While it is true that individuals from both the Mexico and Central America DPSs feed off the coast of California, we are not aware of any evidence to indicate that either of the DPSs is being negatively impacted because of lower reproductive rates. We cited data indicating that "contaminant levels have been proposed as a causative factor in lower reproductive rates found among humpback whales off Southern California" (Steiger and Calambokidis 2000), but we also added that, "at present the threshold level for negative effects, and transfer rates to calves, are unknown for humpback whales" and "[t]he health effects of different doses of contaminants are currently unknown for humpback whales (Krahn *et al.* 2004c)." While Steiger and Calambokidis (2000) clearly state that contaminants could be one of several possible causes of the observed lower rates of reproduction amongst these whales (which are still increasing, just not as rapidly as other groups), they do not point to contaminants as the primary or sole cause; they actually indicate that mysticetes are thought to have lower exposure to contaminants such as hydrocarbons than pinnipeds and odontocetes. We do not have much information from recent humpback whale strandings that could shed light on either contaminant loads or their possible effects on reproduction. We will continue to monitor the health of humpback whales, whether they are listed under the ESA or not.

Regarding the higher number of whale entanglement reports made in 2015 off California, Oregon, and Washington, this may be attributable to changes in the number and distribution of whales in recent years, and/or changes in the distribution of fishing and other human activities, which are, in part, influenced by environmental conditions. We are working to better understand and predict how all these factors may be impacting whales off the west coast. Broader public awareness may also be contributing to the recent increase in entanglement reports. Increasing awareness about whale entanglements and available reporting mechanisms is a focus of our outreach. We have also been working with trained and authorized responders along the west coast to increase their capacity to respond to entanglement reports and train new responders in reporting and response techniques—additional outreach that may be contributing to the 2015 numbers. However, the fact is that the number of reported fishing gear entanglements have increased, and therefore, we continue to view this threat as posing a moderate risk to the Mexico and Central America DPSs.

Comment 22: Several commenters stated that prey depletion in terms of competition from fisheries is a significant threat to humpback whales.

Response: We have no evidence of prey depletion contributing significantly to the extinction risk of any DPS of the humpback whale. It is conceivable that reduction of forage fish could cause shifts in the feeding range of humpback whales to areas with more threats from fishing gear, commercial shipping, or areas not under U.S. jurisdiction. However, we have no information to indicate that the fish species that humpback whales prey upon are reduced in number or will be reduced in number in the foreseeable future to the point where the feeding ranges of humpback whales are changing.

In Alaska, for example, herring are the only forage fish species with a directed fishery, unless we consider juvenile pollock and salmon (the only life stage of these fishes that humpback whales eat), which have fisheries targeting the adults and not the juveniles. Krill are probably the dominant prey item for humpback whales in Alaska, and have no directed harvest. Herring fisheries in Alaska are managed with a fairly conservative guideline harvest rate and a minimum biomass threshold before fishing is permitted. In Prince William Sound, we found that humpback whales were consuming 15–20 percent of the pre-spawning biomass of herring; this rate is sustainable and roughly what the fishery would take, if the fishery were open. Humpback whales in Prince William Sound appear to be the most herring-focused whales in Alaskan waters based on diet analysis, and likely represent the high end of humpback whale dependency on herring.

The BRT discussed the high level of fishing pressure in the region occupied by the Okinawa/Philippines portion of the Western North Pacific DPS (a small humpback whale population). Although specific information on prey abundance and competition between whales and fisheries is not known in this area, overlap of whales and fisheries has been indicated by the bycatch of humpback whales in set-nets in the area. The BRT determined that competition with fisheries is a medium threat to the Okinawa/Philippines portion of the Western North Pacific DPS (which will be listed as an endangered species), given the high level of fishing and small humpback whale population, and a low or unknown threat for all other DPSs (Bettridge *et al.* 2015 at 56).

Comment 23: Many commenters expressed concern about whale watch vessels approaching humpback whales too closely or at high speeds. One commenter asserted that some of the worst harassment is currently seen within marine sanctuary areas because of lack of enforcement, and that this results in displacement of humpback whales through disturbance, harassment, and the abandonment of areas by the whales. The commenter provided examples of harassment from whale watchers a few miles out of Auke Bay off Juneau, AK, off Maui, HI, and in Stellwagen Bank in MA. This commenter urges us to maintain ESA protections for humpback whales.

Response: Stellwagen Bank National Marine Sanctuary (SBNMS) is working with NMFS and other sanctuary partners to educate the public, deter harassment, and encourage responsible stewardship among whale watchers in the sanctuary, including through development of whale watching guidelines for Atlantic waters off the northeast United States, implementation of a citizen science program in collaboration with the U.S. Coast Guard auxiliary, and the joint enforcement agreement between NOAA's Office of Law Enforcement (OLE) and the State of Massachusetts.

In addition to establishing regulations that prohibit vessels from approaching within 100 yards of a whale in sanctuary waters, the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) has a number of outreach programs designed to increase awareness of humpback whales and to reduce harassment by interactions with ocean users, including ocean awareness and ocean etiquette training that educates both the general public and commercial whale watch operators in the region. HIHWNMS has also convened a standing Sanctuary Interagency Law Enforcement Task Force to coordinate enforcement of the humpback whale approach regulation by state and Federal law enforcement partners. We believe these efforts will help reduce the threat of whale watching and increase enforcement and compliance with whale watching guidelines and vessel approach regulations.

We continue to work with the whale watch industry to ensure that vessels do not approach humpback whales too closely through vessel approach regulations in Hawaii and Alaska, and vessel speed rules in the North Atlantic. In fact, in two separate notices published elsewhere in today's issue of the **Federal Register**, we are: (1) Promulgating a direct final rule making minor technical corrections to and recodifying the Alaska approach regulations that have been in place in the part of the Code of Federal Regulations addressing endangered marine or anadromous species (50 CFR 224.103(b)) so that they also appear in the part of the Code of Federal Regulations addressing threatened marine and anadromous species (50 CFR 223.214) and the part setting forth MMPA regulations (50 CFR 216.18); and (2) promulgating an interim final rule setting out similar regulations in Hawaii under the MMPA (50 CFR 216.19). In addition, we have implemented a number of responsible viewing programs across the United States to promote precautionary practices on the water. One of these programs, Whale SENSE, works closely with the whale watch industry along the U.S. Atlantic and in Alaska, whereby operators agree to adopt a high standard of stewardship on the water, including limiting speeds and time spent with whales.

Comment 24: One commenter asserted that we failed to consider the science demonstrating that ocean acidification could profoundly affect the growth and toxicity of phytoplankton associated with harmful algal blooms (known as "red tides") and the detrimental effects this will have on all humpbacks, particularly the proposed Mexico, Central America, and Hawaii DPSs, and that we failed to adequately consider impacts to their food supply.

Response: We did consider HABs, and the BRT found, and we agreed, that HABs represented a minor threat to most humpback whale populations. HABs may be increasing in Alaska, but the BRT was unaware of records of humpback whale mortality resulting from HABs in this region.

We have recent evidence of high levels of domoic acid in two humpback whales that stranded in California in 2015. We obtained very few samples from the eight humpback whales that stranded in California in 2015 as most were too decayed or inaccessible for necropsy, but in these two cases we were able to test for domoic acid and detected its presence. Domoic acid has not been identified as the cause of death for the two humpback whales at this time, and at least one of them also had marks of blunt force trauma.

A recent study (Lefebvre *et al.* 2016) documented spatial patterns and prevalence of domoic acid and saxitoxin exposure in Alaskan marine mammals in order to assess health risks to northern populations. Humpback whales typically feed in cooler Alaskan waters during the spring, summer, and fall months (Baker *et al.* 1986). There may be resident populations of humpback whales in the southeastern Gulf of Alaska. In Alaska, their diet consists of krill and many different kinds of fish including herring (*Clupea pallasii*) and capelin (*Mallotus villosus*), all of which are planktivorous and therefore likely vectors of domoic acid and saxitoxin exposure (Bargu *et al.* 2002; Doucette *et al.* 2005; Lefebvre *et al.* 2002a). A lower percentage of humpbacks tested positive for domoic acid (38 percent, highest concentration = 51 ng/g feces) than saxitoxin (50 percent, highest concentration = 62 ng/g). The highest domoic acid and saxitoxin concentrations were found in an individual that died from a ship strike, which may not be a coincidence because saxitoxin and domoic acid intoxication have been suggested to be a factor in the loss of ability to avoid ships and to be a cause of stranding (Geraci *et al.* 1989). Unless unknown factors inhibit HABs in northern waters, warming water temperatures and increased light availability due to loss of sea ice are likely to support more blooms, increasing toxin concentrations and the health risks they present for northern marine mammal species as they have for southern species. Despite these results, we do not have any evidence to indicate that HABs are causing humpback whale mortalities that rise to a level that would indicate they are contributing significantly to the extinction risk of humpback whale DPSs, now or in the foreseeable future. (Please note that the Arabian Sea DPS, which we list as endangered, presents special considerations as discussed in the Arabian Sea DPS section.)

With regard to impacts on the humpback whale's food supply (in terms of krill), humpback whales switch prey types and are also found feeding on schools of small fish when those are more available. This adaptability is beneficial within and between years and feeding areas and may help humpback whales be more resilient to changing prey distributions and availability. On the negative side, this adaptability may also bring the whales into greater contact with fisheries for these same fish, leading to increases in interactions. As we stated in the proposed rule (80 FR 22304; April 21, 2015), ". . . the BRT did not think the linkage between climate change and future krill production was sufficiently well understood to rate it as moderate or high risk. Nonetheless, any potential impacts resulting from these threats will almost certainly increase, but not in the foreseeable future."

While it is important to continue monitoring humpback whale health, we cannot conclude that ocean acidification is contributing significantly to the extinction risk of any humpback whale DPS through growth and toxicity of phytoplankton associated with HABs or impacts to the humpback whale's food supply, now or in the foreseeable future.

Comment 25: Several commenters asserted that NMFS makes nothing more than a passing reference to climate change and ocean acidification, despite repeatedly recognizing that threats from climate change are likely to increase. In so doing, one commenter argued, NMFS failed to adequately analyze the threat they pose and improperly and summarily dismissed these threats in its analysis for the DPSs not proposed to be listed. Another commenter stated that humpback whales have not recovered to abundances that could sustain a rapid decline due to expected climate changes in the foreseeable future.

Response: We evaluated the effects of climate change and ocean acidification on each humpback whale DPS, as discussed in our proposed rule (80 FR 22304; April 21, 2015 at 22328–22329), but found no basis to conclude they contribute significantly to extinction risk for most DPSs, now or in the foreseeable future. (Please note that the Arabian Sea DPS, which we list as endangered, presents special considerations as discussed in the Arabian Sea DPS section). The ESA requires that listing decisions be based solely on the best available scientific and commercial information. We cannot merely speculate that climate change and ocean acidification contribute significantly to the extinction risk of any humpback whale DPS, but must base our listing determinations on evidence sufficient to indicate that a particular effect is likely to lead to particular biological responses at the species level. In fact, the only evidence for climate change effects on prey abundance or type is humpback whales moving north into Arctic waters, which is an expansion of their range and could be seen as a positive effect. There is a high degree of uncertainty associated with the fundamental issue of whether loss of sea ice will negatively affect krill; while overwintering larval krill use sea ice for predator protection and as a food source (algae on the underside of the ice), it is possible that krill would do better in open water because it has higher primary productivity. Here the data do not allow us to draw more than speculative conclusions as to the impacts of climate change on the species, and thus our qualitative analysis of the impacts of climate change satisfies our obligation to use the best scientific and commercial data available. *See Oceana, Inc.* v. *Pritzker,* 75 F. Supp. 3d 469, 493 (D.D.C. 2014)

Comment 26: One commenter asserted that the scientific record does not support the statement made by the IWC and cited in the status review report and the proposed rule, "It is generally accepted that cetaceans are unlikely to suffer problems because of changes in water temperature per se (IWC 1997)." This commenter added that the proposed rule changes fail to address environmental and health concerns regarding climatic events that have already begun, and that they believe will escalate in the foreseeable future. The commenter described her research on the structure and innervation of humpback whale skin, and concluded that critical concerns facing the species from climate change include: (1) UV radiation exposure secondary to ozone depletion compromises skin by burns and blisters, making the whale more susceptible to pathogens and weakening its immune response; (2) If water temperatures rise, the ability of these animals to cool down, particularly in tropical birthing and calving grounds, will be diminished. While the metabolic effects of this are unknown, her experience with whale skin suggests to her that one complication will be a breakdown of skin integrity; (3) Low pH levels are experienced as chemical burns. This commenter asserted that her research has shown these animals have neuroanatomical fibers in their skin that may respond to similar stimuli; (4) Skin diseases, lesions, lice, pathological microbial communities, and pollutants is another area of particular concern, as the science exploring lesions and immune response is minimal, though reported occurrences are increasing. While whales were able to evolve during past climatic shifts, this commenter argues, the present rapid rate of temperature change and ocean acidification is unprecedented. The commenter concludes that it is not wise to assume whales will be able to genetically evolve or adopt behavioral modifications sufficient to overcome the foreseeably predicted changes. The commenter provided 4 citations related to ultraviolet (UV) radiation damage to whale skin.

Response: When we cited the IWC (1997) report in the proposed rule, we added, "Rather, global warming is more likely to effect changes in habitats that in turn potentially affect the abundance and distribution of prey in these areas." We carefully reviewed the four citations (Martinez-Levasseur *et al.* 2010, 2013a, 2013b; Bowman *et al.* 2013) related to UV radiation damage to whale skin provided by the commenter and not reviewed at the time of the proposed rule. Results from Martinez-Levasseur *et al.* (2010) may indicate quick responses to increasing irradiation, based on increased number of melanocytes, stimulation of the synthesis of melanin, and augmented apoptosis (the death of cells that occurs as a normal and controlled part of an organism's growth or development) when exposed to UV radiation in blue whales, fin whales, and sperm whales. Martinez-Levasseur *et al.* (2013a) discovered an apparent plastic pigmentation response as well as the use of distinct strategies to counteract harmful exposure to UV radiation amongst whale species, raising questions about the selective pressure that sun exposure has exerted on these marine mammals. Martinez-Levasseur *et al.* (2013b) provided preliminary results that demonstrate an association between the levels of expression of target genes and sunburn microscopic lesions previously recorded in cetacean epidermis. Bowman *et al.* (2013) presented a reliable method which, for the first time in the literature, allows for the simultaneous detection of skin mtDNA damage in the same three species of sun blistered whales and noted that it would be interesting to see if detected differences in damage among these species reflect any behavioral differences, such as migration patterns, skin pigmentation, or the time spent at the surface of the ocean. While these studies are interesting, they do not provide sufficient evidence to conclude that increased UV radiation due to climate change is currently affecting the status of humpback whale DPSs or is likely to do so within the foreseeable future. The commenter did not provide any citations to her own published research, so we cannot evaluate her other assertions, which were only generally described. We have no evidence that humpback whales will be impacted in the ways described by this commenter within the foreseeable future. The only DPS for which we consider climate change to be a significant threat is the Arabian Sea DPS, as we stated in the proposed rule, and we are listing this DPS as endangered.

Comment 27: One commenter stated that delisting populations will also expose whales to new threats, the impacts of which are not well understood. The commenter suggested that acoustic prospecting, off-shore drilling, and other impacts of the oil and gas industry have never been fully realized for these animals as these types of projects are recent additions to the ocean environment and their development has been limited in the whales' habitat due to their protected status. The commenter further suggested that deep-sea mining is another new industry, the impacts of which are just beginning to be studied now, that has the potential to release toxic contaminants previously locked away in the seabed, and that old industries haven't yet reformed into modern, sustainable practices. This commenter asserted that fishing continues globally to take larger catches than science recommends; farming, sewage, and industrial practices continue to put too many nutrients and pollutants into the ocean, increasing dead zones and bioaccumulation; and the shipping industry continues to increase, increasing the likelihood of ship strikes and acoustic interference as the oceans become noisier. Another commenter asserted that NMFS also failed to consider new practices in the oil and gas industry that present new threats. Offshore "fracking"—an unconventional oil and gas extraction practice that involves blasting voluminous amounts of water and toxic chemicals into the earth at high pressures to crack rock beneath the ocean floor—is expanding, exposing animals to possible leaks and to the chemical discharges that are a byproduct of this activity. This same commenter said that, in addition to analyzing each threat on its own, NMFS must also analyze threats to humpbacks cumulatively to determine if they are threatened or endangered, citing *Carlton* v. *Babbitt,* 900 F. Supp. 526, 530 (D.D.C. 1995) (the agency "must consider each of the listing factors singularly and in combination with the other factors"). This commenter asserted that NMFS paid lip service to this requirement by claiming that the five listing factors do not pose a threat to recovery "either alone or cumulatively."

Response: The threats mentioned in this comment are described very generally, and we have no specific evidence to indicate that they will negatively impact any humpback whale DPS. We considered the potential for new threats in developing our proposed listing determinations, and we conclude that these threats are not likely to increase the risk of extinction to any of the DPSs not proposed for listing to the point where they would warrant listing under the ESA. Finally, it is important to note that the Monitoring Plan we are issuing today for humpback whales establishes a framework for continued monitoring and assessment of potential threats for the next 10 years (twice the minimum 5-year monitoring period required by the ESA).

With regard to the suggestion that we failed to adequately evaluate the combined effects to the species from all section 4(a)(1) factors, while we did not explicitly discuss the combined effects of different threats on the different DPSs in the proposed rule, it is clear that we did consider them. For the West Indies, Hawaii, and Mexico DPSs, we did not mention the combined effects of threats in the proposed rule because the abundance estimates of these DPSs were sufficiently high that we could not foresee any combination of threats impacting the DPSs to the point where we would consider them threatened or endangered. (Note that we now have revised abundance estimates for the Mexico DPS and have reconsidered its status in light of the continuing threat of fishing gear entanglements). For the Southern Hemisphere DPSs that we did not propose to list (Brazil, Gabon/Southwest Africa, Southeast Africa/Madagascar, West Australia, East Australia, Oceania, and Southeastern Pacific), we noted in our proposed rule, "None of the factors that may negatively impact the status of the humpback whale appear to pose a threat to recovery, either alone or cumulatively, for these DPSs." The high abundances of these DPSs similarly led us to conclude there was no potential combination of threats that would result in endangered or threatened status for any of these DPSs. For those DPSs that we proposed listing as endangered (Cape Verde Islands/Northwest Africa, Arabian Sea) on the basis of the factors identified, there was no need for further consideration of combinations of effects because no amount of additional risk could lead to any greater protected status than endangered. While the discussion in the status review report and proposed rule was not explicit on this point, consideration of the combined effect of threats can be reasonably discerned from them and we reiterate this reasoning here.

Since the proposed rule published, we have reconsidered our listing determinations for the Western North Pacific, Mexico, and Central America DPSs. We have determined that the Western North Pacific and Central America DPSs are endangered (please see Western North Pacific DPS and Central America DPS sections for our rationale) and that the Mexico DPS is threatened (please see Mexico DPS section for our rationale). Further, we now confirm in this final rule that we have considered whether any section 4(a)(1) threats in combination would lead us to conclude that a different listing status is appropriate for any DPS. We have reached our final listing determinations after fully considering all factors together and individually.

Comments on the West Indies DPS

Comment 28: One commenter noted that on page 95 (80 FR 22304; April 21, 2015 at 22325), the proposed rule states that the SBNMS has the potential to reduce the extinction risk of the West Indies DPS by providing protection on the feeding ground. While this commenter agrees that the SBNMS is a site of important research and management initiatives, the commenter points out that it is a small marine protected area that is visited by only approximately 200 individual humpback whales per year on average (CCS, unpublished data). As such, argues the commenter, it is unlikely that it could have significant effect on the viability of the West Indies DPS. The commenter further notes that, on a larger scale, the SBNMS is part of a Sister Sanctuary Program with other marine protected areas within the range of North Atlantic humpback whales and that this relationship has the potential to facilitate conservation and research across international boundaries. However, it is not clear how this program might be impacted by a change in the ESA status of the proposed West Indies DPS.

Response: We agree that the SBNMS is a small marine protected area, but as the commenter noted, it is part of a larger Sister Sanctuary Program that can provide some protection to these whales at certain stages in their migration. To date, SBNMS has sister sanctuary agreements with the Dominican Republic, the French Antilles, and Bermuda. The intent of the agreement(s) is to foster cooperation on activities of mutual interest and exchange experience through coordination of capacity building, research, and education concerning the conservation, stewardship, and management of the endangered humpback whale, and the respective marine bank ecosystems they frequent. We do not expect these activities to change because the West Indies DPS of humpback whale is not protected under the ESA.

Comment 29: The State of Massachusetts supports not listing the West Indies DPS and asserts that the MMPA and the Atlantic Large Whale Take Reduction Plan (ALWTRP) will provide protections.

Response: We acknowledge the State of Massachusetts' comments, and are finalizing the identification of, and a "not warranted" finding for, the West Indies DPS in this final rule. We agree these other actions provide protection for humpback whales.

Comment 30: Two commenters suggested that there was insufficient support for a single, wider Caribbean region DPS, taking the position that the West Indies DPS we identified comprises two (or more) DPSs that should be considered endangered. Another commenter stated that new information is now available based on research in the eastern Caribbean and the eastern North Atlantic and that this information does not support previous assumptions that the West Indies is a homogeneous breeding population. Rather, whales in the eastern Caribbean appear to exhibit different breeding timing and preferential exchange with eastern North Atlantic areas (Stevick *et al.* accepted; Stevick *et al.* 2015). This commenter stated that it is unclear whether these results might require a change in the spatial boundaries of the two proposed DPSs, or if there should be more than two DPSs in the North Atlantic. The commenter stated that it is also not clear whether further heterogeneity may exist within other under-sampled areas of the Caribbean. The commenter believes that these results must be further scrutinized before ascertaining the number, the geographic extent, and status of DPSs in the North Atlantic.

Response: Research (Stevick *et al.* 2015) shows that some humpback whales that are resighted in the western North Atlantic feeding grounds move into the more northern part of the Caribbean in January and February, and another group that is resighted in Iceland and northern Norway enters the southeastern Caribbean at a later date. Further, Stevick *et al.* (2016) discusses 4 individual humpback whales sighted in Guadeloupe and the Cape Verde Islands; one was subsequently sighted in Norway. However, this information is based on very few data, and does not provide a sufficient or convincing basis to combine whales that breed in the Southeastern Caribbean with those in the Cape Verde Islands/Northwest Africa DPS or to identify three or more DPSs in the North Atlantic. The difference in observed breeding timing could be a result of survey period. In addition, at least three humpback whales from the Lesser Antilles (southeastern Caribbean) have been resighted in West Greenland, Newfoundland, and Norway, as well as the Dominican Republic, which indicates mixing. At this time, we believe the best available scientific and commercial information supports the DPS structure we have identified. While further research, including studies of genetic variation between breeding areas in the northern Caribbean and southeast Caribbean, as well as the Cape Verde Islands, may support the commenter's position in the future. At this time we find no basis to draw different conclusions about the DPS structure of humpback whales in the North Atlantic than we described in our proposed rule.

Comment 31: Several commenters stated that the Years of the North Atlantic Humpback (YONAH) and More North Atlantic Humpbacks (MONAH) surveys are 20+ and 10 years old, respectively, and that we relied on older, unpublished abundance data for the proposed West Indies DPS. The commenters noted that we have suggested in the past that data older than 8 years are not good enough for estimating potential biological removal (PBR) (Stevick *et al.* 2015). One of the commenters asserted that the MONAH data were used to calculate a population trend that is said to vary from a "zero percent" increase to a 3 percent increase in a 10-year period depending on the model used. This commenter added that the MONAH data remain unavailable for review a decade later. The commenters also stated that the population growth rate for this DPS seems to be only 3.1 percent (Stevick *et al.* 2003), but the Humpback Whale Recovery Plan said 3.5 percent would be required before we could consider delisting the humpback whale. Further, they argued, the abundance estimate of 12,312 individuals for the West Indies DPS' putative breeding ground is only 10 percent of the long-term estimate of 112,000 individuals.

Response: We are required to use the best available scientific or commercial information when making a listing determination under the ESA, and this is what we did when we relied on these abundance and trend estimates. The commenter has taken certain prior statements out of context: We have determined that, unless compelling evidence indicates that a stock has not declined since the last census, the minimum population size estimate of the stock should be considered unknown if 8 years have transpired since the last abundance survey (NMFS 2016). This guidance is in the context of our PBR calculations under the MMPA and does not apply to ESA listing determinations, which require that we base our decisions on the best available scientific and commercial data.

However, we agree with the commenter that the MONAH data remain unavailable and have not been fully analyzed yet, so in this final rule we are not relying on the abundance estimate from the MONAH survey. The abundance estimates from the YONAH survey are therefore the best available scientific or commercial information, and they indicate a population size for this DPS of 10,400 (95 percent confidence interval (CI) 8,000–13,600) individuals using genetic identification data, and 10,752 (coefficient of variation (CV) = 6.8 percent) individuals using photo identification data for the period 1992–1993. Stevick *et al.* (2003) estimated the growth rate at 3.1 percent (standard error (SE) = 1.2 percent) for the period 1979–1993. While these abundance and growth rate estimates are based on data that were collected prior to the MONAH data, we consider them to be more reliable at this time. We reaffirm our conclusion that the West Indies DPS is not threatened or endangered under the ESA. If newer reliable data become available, that information can be considered in the context of 5-year reviews, the Monitoring Plan, or upon a petition, to determine whether any further changes to listing status are warranted.

The commenters who stated that the population growth rate for this DPS seems to be only 3.1 percent (Stevick *et al.* 2003) are correct, but their assertion that the Humpback Whale Recovery Plan said 3.5 percent would be required before we could consider delisting the humpback whale is incorrect. The Recovery Plan did not state that a 3.5 percent growth rate would satisfy the recovery goal of doubling the population size (please see our response to Comment 10 for further details).

As we have explained, our action today is based on a comprehensive evaluation of the DPSs comprising the humpback whale's entire range and assigns a listing status to each DPS. To the extent that our action for the West Indies DPS may constitute a "delisting," it is consistent with § 424.11(d), which provides for delisting on "the basis of recovery" (424.11(d)(2)). As that phrase is used in the regulations, it means that "the best scientific and commercial data available indicate that [the species] is no longer endangered or threatened" (424.11(d)(2)). We are not required to first find that the recovery plan criteria have been met in order to directly apply the 4(a)(1) factors. As discussed in the proposed rule, we determined, after evaluating the ESA section 4(a)(1) factors, that the West Indies DPS is not endangered or threatened. For further explanation, please see the *Rationale for Revising the Listing Status of a Listed Species Under the ESA* section above and our responses to Comments 8 and 9.

Comment 32: One commenter noted that there is very little available scientific information about breeding areas for the humpback whales near Iceland and Norway, where whales are still killed. Many of these populations use the same feeding areas, so if a whale is killed, it would be hard to determine the origin of a particular humpback whale population. In these areas where multiple populations feed, it would be difficult to determine which level of protection applies to individuals when each population is treated differently. This commenter does not support the removal of ESA protections from North Atlantic humpback whales that breed in the West Indies, a population that they assert has not yet recovered from whaling and continues to be seriously impacted by human induced threats.

Response: We agree that there is little available scientific or commercial information about breeding areas for humpback whales near Iceland and Norway. Humpback whales feeding in the Northeast Atlantic have been matched to breeding grounds in the Cape Verde Islands and the Caribbean. Additional research would provide a greater understanding of the proportions of humpback whales in the Northeast Atlantic that come from the Cape Verde Islands and the Caribbean, but the ESA standard of "best available scientific and commercial information" does not require that we conduct new studies. Rather, we must rely on the best *available* information. Here, we conclude that the best available scientific and commercial information is sufficient to support our determinations.

Iceland and Norway do not hunt humpback whales, so we are confident that individual humpback whales migrating to Iceland and Norway from the Caribbean are not in danger of extinction due to whaling. Nor is this threat likely to affect the status of whales in the foreseeable future. Iceland hunts minke whales for its domestic market and its hunt for fin whales was recently suspended. Norway hunts minke whales only for domestic consumption. These countries have not recently expressed a desire to hunt humpback whales, and there are no other indications to suggest that they will conduct such hunts. Therefore, we are confident they will not begin whaling for humpback whales in the foreseeable future. (Please also see our response to Comment 12).

Comment 33: One commenter noted that few humpback whales were seen in the New York Bight area before 2011, and now they are coming back. This commenter stated that the Hudson River is improving, but that threats still remain, and shipping in this area will only increase. This commenter recommended leaving the West Indies DPS listed as endangered, adding that there is no definitive evidence to conclude that the West Indies DPS is leveling off or reaching carrying capacity.

Response: The best available scientific and commercial information indicates that the West Indies DPS is increasing in abundance. As we explained in our response to Comment 9, whether a DPS reaches carrying capacity (or historical abundance) is not a criterion for recovery under the ESA. Please see responses to Comments 34–38 and 42 regarding threats to the West Indies DPS.

Comment 34: One commenter asserted that humpback whales in the Northwest Atlantic are subject to impacts of industrial electric generators operating on the shoreline, such as Entergy Pilgrim Nuclear Power Station on the shore of Cape Cod Bay (Plymouth, MA), Seabrook Station Nuclear Power Plant (Seabrook, NH), and Mirant Canal Power Plant (Sandwich, MA). Possible and realized negative impacts include entrainment and impingement of food sources (fish and ichthyoplankton), as well as chemical, thermal, and radioactive discharges.

Response: We have conducted informal consultations under section 7 of the ESA for the relicensing of the named power plants. The consultations concluded that the relicensing and continued operation of the power plants were not likely to adversely affect any ESA-listed species under our jurisdiction (including, at the time, humpback whales). On May 17, 2012, we concluded an informal consultation with the Nuclear Regulatory Commission (NRC) on the relicensing of the Pilgrim Nuclear Power Plant Station (PNPPS) located in Plymouth, Massachusetts. The consultation concluded that the relicensing and continued operation of the PNPPS was not likely to adversely affect any NMFS-listed species. No new information has come to our attention that would cause us to take a different view for this final listing determination. While some zooplankton is likely lost to entrainment at the PNPPS each year, approximately 85 percent of entrained zooplankton are believed to survive (Bridges and Anderson 1984). Further, in October 2015, Entergy Corporation announced that it will close its PNPPS in Plymouth, MA, no later than June 1, 2019.

On October 10, 2012, we completed an informal consultation with the NRC on the proposed relicensing of the Seabrook Nuclear Power Station (SBNPS) located in Seabrook, New Hampshire. We concurred with the NRC's determination that the continued operation of the SBNPS is not likely to adversely affect any ESA-listed species.

We consulted on the Mirant Canal Power Plant in 2008, concluding, "Based on the above analysis of water quality effects and the determination that all effects, if adverse, will be insignificant or discountable, NMFS is able to concur with EPA's determination that the proposed NPDES permit for this facility is not likely to adversely affect listed whales or sea turtles."

Comment 35: One commenter expressed concern about the adequacy of other protection measures for the West Indies DPS, which the commenter understands to be the primary breeding ground for North Atlantic humpback whales that consistently return to U.S. waters each year. The latest information on population size and growth rate for the West Indies DPS is more than a decade old and, according to the commenter, the results are somewhat ambiguous. This commenter would be more comfortable with listing changes if there were proven success in DPS-level monitoring and controlling current human impacts. The commenter stated that if populations were to lose ESA protections then it will be necessary to track their status more intensively to reliably detect and potentially reverse adverse effects of delisting in a timely manner.

Response: The commenter refers to the West Indies DPS as "the primary breeding ground for North Atlantic humpback whales." To clarify, the West Indies DPS refers to the individual humpback whales that constitute the DPS, not the breeding ground itself. The breeding grounds for the West Indies DPS include waters of the Dominican Republic (primarily Silver Bank, Navidad Bank) and Puerto Rico (Mona Passage).

There are a number of ongoing conservation efforts that benefit the West Indies DPS. These include a number of measures implemented under the authority of the MMPA, including the ALWTRP and Harbor Porpoise Take Reduction Plan (HPTRP) to reduce the risks associated with large whale interactions with fishing gear, and the Ship Strike Reduction Strategy to reduce risks associated with vessel collisions. Please see the proposed rule (80 FR 22304; April 15, 2015 at 22324–22325) for more information on these measures.

Finally, it is important to note that the Monitoring Plan we are issuing today for humpback whales establishes a framework for continued monitoring and assessment of threats for the next 10 years (twice the minimum 5 year monitoring window required by the ESA).

Comment 36: One commenter stated that it has not been possible to adequately limit the human impacts from entanglement and ship strikes that are known to occur within U.S. waters, let alone those that may occur in other parts of the range of the West Indies DPS. The commenter stated that humpback whale takes along the U.S. East Coast have exceeded management limits for more than two decades, and these are thought to be underestimates of the total number of takes actually occurring (van der Hoop *et al.* 2013; Pace *et al.* 2014; Cole and Henry 2013). As rationale for urging us to keep the West Indies DPS listed as endangered, another commenter asserted that this year alone the marine animal disentanglement team, based out of Provincetown, MA, has received reports of 7 entangled humpback whales. Another commenter asserted that entanglement-related mortality in Canada is largely unaddressed, and there has been an increase in the use of trap/pot gear. This commenter also asserted that there was an increased risk of entanglement for humpback whales in the areas that were reopened to groundfishing when the New England Fishery Management Council took final action on their Omnibus Essential Fish Habitat Amendment 2.

Response: The largest potential threats to the West Indies DPS are entanglement in fishing gear and ship strikes; these occur primarily in the feeding grounds, with some documented in U.S. waters of the mid-Atlantic. While some large whales display evidence of surviving vessel collisions, these interactions, particularly with larger ships, are routinely lethal due to blunt force trauma of the impact and the severe lacerations associated with the vessel propeller. It is difficult to determine whether mortalities and injuries from these threats are due to increasing abundance of humpback whales or increased numbers of fishing gears and vessels. However, we have determined that the West Indies DPS continues to grow in abundance, despite the fishing gear entanglements and vessel strikes, and we determine that its high abundance provides sufficient resilience within the foreseeable future against such threats.

We disagree that it has not been possible to adequately limit the human impacts from entanglement and ship strikes that are known to occur within U.S. waters, let alone those that may occur in other parts of the range of the West Indies DPS. Existing management measures implemented specifically for protected resource conservation should mitigate any impacts of the amendment on large whales and other marine mammals. The ALWTRP implements gear restrictions, spatially and seasonally, to minimize interactions between whales and vertical lines from fishing gear, as well as to reduce serious injury or mortality, should an interaction occur. Two recent adjustments to the ALWTRP include the "Sinking Groundline Rule" that became effective in April 2009 (73 FR 51228; September 2, 2008), and the "Vertical Line" rule that became effective in August 2014 (79 FR 36586; June 27, 2014). These rules have improved, or are expected to improve, management of marine mammal interactions with fishing gear. In addition, when the Atlantic Large Whale Take Reduction Team (ALWTRT) was working on the vertical line rule to address entanglement risk of vertical lines to large whales, it determined that gillnets represent less than 1 percent of the total vertical lines on the east coast (see Appendix 3A in the most recent ALWTRP Final Environmental Impact Statement) and that the impacts from this gear on large whales is minimal. Therefore, the 2014 rule focused on trap/pot vertical line reduction, which is a gear that has been, and would, for the most part, continue to be allowed in the habitat management areas. Areas with the greatest co-occurrence of large whales and gillnet gear will continue to be subject to existing restrictions under the ALWTRP. Further, should data indicate that gillnet entanglement risk has increased, the ALWTRT would be reconvened to address the issue.

Because a number of the proposed alternatives considered for Omnibus Essential Fish Habitat Amendment 2 would potentially open areas to fishing that have been closed for a significant period of time, there are no data to provide insight as to how gear may potentially shift and, if there is a shift, what kind of impact this may have on protected species. As a result, it is not possible to forecast precisely what entanglement risk would exist if the closures are removed. However, we can adequately examine risk based on overall gillnet effort—*i.e.*, the actual number of nets in the water. Because there is unlikely to be an increase in gillnet effort overall, the overall risk of marine mammal entanglement is unlikely to increase and the risk of opening closed areas to gillnet fishing is unknown. There could potentially be a decreased level of entanglement risk, as areas in which gillnet gear is currently heavily concentrated become more diffuse. Please see our response to Comment 39 for details on measures that are in place for Atlantic right whales that likely reduce the risk of vessel collisions with humpback whales.

Further, Barlow and Clapham (1997) have estimated a population growth rate of 6.5 percent (SE = 1.2 percent) for the well-studied humpback whale population in the Gulf of Maine, which is part of the West Indies DPS. Clapham *et al.* (2003) suggest that there are indications this growth rate has slowed in recent years.

The current PBR for Gulf of Maine humpback whale population stock (under the MMPA) is 2.7 animals per year. When this final rule becomes effective, PBR will be recalculated and will increase because the West Indies DPS will no longer be listed, and there will be no ESA-listed DPS that overlaps with the Gulf of Maine stock. The total estimated human-caused mortality and serious injury to the Gulf of Maine humpback whale stock is estimated as 10.3 animals per year. This average is derived from two components: (1) Incidental fishery interaction records, 8.9; and (2) records of vessel collisions, 1.4 (Waring *et al.* 2014).

While mortality and serious injury of humpback whales from the Gulf of Maine stock have exceeded its PBR, this stock is only a small component of the total West Indies DPS humpback whale population. The best estimate for the total population of humpback whales in the Gulf of Maine stock is 823 animals (Waring *et al.* 2014). The overall population of the West Indies DPS of humpback whales is estimated to be 10,400–10,752 (please see response to Comment 31). Overall, the West Indies DPS was estimated to be increasing slowly over the time period 1980 to 2005, but there is not sufficient evidence to statistically conclude the DPS has leveled off, such as would occur for a population reaching carrying capacity (Bettridge *et al.* 2015). In contrast, estimates from feeding areas in the North Atlantic indicate strongly increasing trends in Iceland (1979–1988 and 1987–2007), Greenland (1984–2007), and the Gulf of Maine (1979–1991). There is some indication that the population growth rate in the Gulf of Maine has slowed in more recent years. It is not clear why the trends appear so different between the feeding and breeding grounds. A possible explanation would be that the Silver Bank breeding ground has reached carrying capacity, and that an increasing number and percentage of whales are using other parts of the West Indies as breeding areas (Bettridge *et al.* 2015). In any case, the ESA does not require that the population level of a listed species must "level off" or reach carrying capacity for ESA protections to not apply; we have directly evaluated the likelihood of the DPS to persist by considering abundance and trend information and applying the section 4(a)(1) factors directly.

It is not clear whether there is a significant increase in the use of trap/pot gear in Canada as the commenter suggests. Canada's most recent assessment of the Northwest Atlantic population of humpback whales conducted by COSEWIC determined that the population is not at risk of being listed as endangered under SARA. A Code of Ethics was established by a non-profit organization working with whale-watching operators to minimize the impact of whale watching on whales. Whale watching and ecotourism operators throughout Atlantic Canada and Quebec have adopted similar codes of ethics to reduce interactions with large whales, including humpback whales. A protocol has been established for releasing entangled whales from fishing gear. There are a number of first responders in Canadian waters. In addition to the Grand Manan Whale and Seabird Research Station and other groups in Nova Scotia, the volunteer Campobello Whale Rescue Team responds to entanglements in Canadian waters (primarily the lower Bay of Fundy) and collaborates with U.S.-based rescue groups at the Provincetown Center for Coastal Studies and the New England Aquarium where humpback whales and other whale species are more prevalent. We do not agree that entanglement-related mortality in Canada is largely unaddressed.

Regarding the commenter's assertion that there would be an increased risk of entanglement for humpback whales in the areas that were reopened to groundfishing when the New England Fishery Management Council (Council) took final action on their Omnibus Essential Fish Habitat Amendment, this is not a final action. NMFS has not taken a final action on this amendment. Between October 10, 2013 and January 8, 2014, the Council accepted written comments on the amendment and its associated draft Environmental Impact Statement, and these comments were submitted to us. Between November 24, 2014 and January 7, 2015, the Council held 12 public hearings on Omnibus Essential Fish Habitat Amendment 2. All of the proposed habitat management alternatives, except for the no action alternative, would remove year-round groundfish closures and result in gear capable of catching groundfish being allowed into areas where they had previously been restricted. Changes in the patterns of fixed gear use, specifically concentrations of fixed gear, have the greatest potential to influence the magnitude of protected resources impacts in the region. Gillnets and traps/pots have been documented as having the most interactions with whales and dolphins as compared to trawl or hook gear. The management measures currently in place for the Northeast multispecies, monkfish, and skate fisheries (*i.e.,* the fisheries that use gillnets and bottom trawls) and the scallop fishery all limit the overall amount of fishing effort, mainly through annual catch limits on target stocks. As a result, the changes proposed in this amendment would not be expected to result in an increase in fishing effort overall, just shifts in the location of that effort.

Comment 37: Commenters assert that while some humpback whale populations have shown signs of recovery, North Atlantic humpback whales struggle to recover from decades of whaling as they face unsustainable threats from entanglements in fishing gear, vessel strikes, energy development, ocean noise, and pollution. The commenters argue that Gulf of Maine humpback whales are currently being seriously injured or killed by human impacts at a rate higher than the population can sustain to recover, and some BRT members considered that North Atlantic humpback whales who breed in the West Indies may be at a "moderate" or "high risk of extinction" due to "potentially high rates of entanglement and/or ship strikes in some parts of its range" as well as the multiple cases of mass die-offs of humpback whales in the Gulf of Maine. The commenters do not support removing ESA protections from North Atlantic humpback whales that breed in the West Indies.

Response: The BRT concluded that North Atlantic humpback whales that breed in the West Indies are at low risk of extinction, and we agree. As discussed in the West Indies DPS section, the most reliable estimate of abundance for the West Indies DPS is 10,400–10,752 animals (please see response to Comment 31). Humpback whale numbers in the Gulf of Maine are increasing at a rate of 3.1 percent per year, which we conclude is evidence of the population's resilience to the injuries and mortalities it may experience into the foreseeable future. The most recent and best estimate of annual serious injury and mortality for the Gulf of Maine stock of humpback whales is 10.2 animals annually (Waring *et al.* 2014). As stated above in our response to Comment 36, the Gulf of Maine stock (under the MMPA) is only a small portion of the overall population of humpback whales that comprise the West Indies DPS. Further, these whales will still be protected under the MMPA, which prohibits *take* and requires that marine mammal stocks be maintained at *optimum sustainable population* levels (please see response to Comment 36).

The majority of the BRT members concluded that the West Indies DPS was "not at risk of extinction" (82 percent of the likelihood points). The concern by some members of the BRT that there is potential for this DPS to be at "moderate" or "high risk of extinction" reflects uncertainty on the part of some BRT members stemming from potentially high rates of entanglement and/or ship strikes in some portions of its range (17 and 1 percent, respectively), and the occurrence in the Gulf of Maine of recent multiple unusual mortality events (UMEs) (Bettridge *et al.* 2015). Despite these threats, the abundance of the West Indies DPS is substantial, and the growth rate is positive.

The threats mentioned in this comment are described very generally, and we have no indication that they will negatively impact humpback whale DPSs. We considered the potential for new threats in developing our proposed determinations, and we conclude that these threats are not likely to increase the risk of extinction to any of the DPSs that have not been proposed for listing to the point where they would warrant listing under the ESA.

Finally, it is important to note that the Monitoring Plan we are issuing today per section 4(g)(1) of the ESA establishes a framework for continued monitoring and assessment of threats for the next 10 years (twice the minimum 5-year monitoring window required by the ESA). We have determined that the West Indies DPS continues to grow in abundance, despite the fishing gear entanglements and vessel strikes. Please see our responses to Comments 19, 20, 21, 34, 35, 36, 38, and 41.

Comment 38: Several commenters stated that NMFS' own data say most humpback whales have been entangled at least once. One commenter stated that, according to Center for Coastal Studies, 80 humpback whales have been rescued since 1984, many from gear entanglement. According to another commenter, a quarter to a third of the population show evidence of vessel strikes, and well over half show signs of a previous entanglement. In discussing their assertion that we did not consider the inadequacy of regulatory mechanisms when making our listing determinations for the 14 humpback whale DPSs, another commenter asserted that regulations have proven inadequate to reduce humpback whale mortality to legally mandated levels, citing Pace *et al.* (2014).

Response: The commenters misconstrue the source of the data in Waring *et al.* (2014). Those data are from the Stock Assessment Report for humpback whales. Stock Assessment Reports are, for the most part, compilations of published information rather than NMFS' own data. Waring *et al.* (2014) note that scarification rates have been used to study entanglement-related scarring on humpback whales in the Gulf of Maine, with the results suggesting that between 48 percent and 65 percent had experienced some sort of entanglement (see also Robbins and Mattila 2001). However, those entanglement rates include all sources of entanglement, including moorings and other non-fishing activities.

Large whale entanglements, including those involving humpback whales, are difficult to study, as the moment of entanglement is rarely observed and in most cases animals move away from the location of the event. Since 1997, scarification rates have been used as a measure of entanglement rates for large whales. These scar studies provide a method for evaluating both lethal and non-lethal entanglement events. The continued monitoring of scarification rates provides a means to help monitor the effectiveness of management efforts implemented to reduce the frequency of these types of interactions. Further, since those scarification studies have been conducted, NMFS, in consultation with the ALWTRT, has developed and implemented two major regulatory actions that have significantly reduced the volume of groundlines from trap/pot and gillnet gear (72 FR 57104; October 5, 2007) and vertical lines in all trap/pot gear (79 FR 36586; June 27, 2014) to significantly reduce the risk of entanglement.

We acknowledge that fishing gear entanglement continues to impact humpback whales to varying degrees in the range of different DPSs. However, we have assessed the potential effects of fishing gear entanglements on several species of large whales including humpback whales in the northwest

Atlantic (West Indies DPS) through the ESA section 7 consultation process. We have completed a number of biological opinions on several fishery management plans (FMPs), including the American lobster, the Northeast Multispecies, monkfish, spiny dogfish, Atlantic bluefish, Northeast skate complex, mackerel/squid/butterfish, and summer flounder/scup/black sea bass fisheries and concluded that these fisheries are not likely to jeopardize the continued existence of the species (see *http://www.greateratlantic.fisheries.noaa.gov/protected/section7/bo/actbo.html*).

Pace *et al.* (2014) analyzed data from mortalities and serious injuries prior to new regulations requiring sinking ground lines and vertical lines, which are a known important whale entanglement problem. That paper supports our conclusion that additional measures to reduce entanglement were needed at that time and are still required now. The ALWTRT was apprised of these findings, and our Greater Atlantic Regional Fisheries Office cited this information as support for the ground line and vertical line rules with the goal of reducing entanglements that result in serious injuries and mortalities, in accordance with requirements of MMPA and ESA. Further, we collaborated with the ALWTRT to develop a monitoring plan for the ALWTRP that provides for a 5-year monitoring period to evaluate the impact from and compliance with the regulations associated with the ALWTRP. As such, we will gather data over 5 years, and will then analyze whether there is a noticeable change from the suite of conservation measures implemented through the ALWTRP. We are currently in our second year of implementing the combined sinking groundline and vertical line regulations. The monitoring plan provides for taking immediate additional action if needed (as a safety mechanism that allows us to respond if a new emerging issue arises that is not addressed in the ALWTRP) prior to the end of 5 years.

Comment 39: Many commenters urged us not to take the West Indies DPS off the endangered and threatened species list, as many threats still remain, including vessel collisions, fishing gear entanglements, noise, and climate change. One of these commenters asserts that the Gulf of Maine population will demonstrate moderate habitat variability in coming years that will increase the risk to it from these threats. The commenter states that, without the additional protections of the ESA, NMFS may find it hard to meet its legal obligations under the MMPA. If too many individuals are lost as a result of human activity, this commenter argues, the population will continually end up going over its PBR rate and will fail to meet or maintain its optimum sustainable population (OSP) level. This commenter also asserts that the ESA provides more protection than the MMPA. This commenter concludes that it is likely that delisting this particular population will cause these cases of human interactions to increase, which may ultimately lead to a need for NMFS to relist the population, wasting valuable resources that could have been saved if the population remained listed the entire time. Another commenter cited Laist *et al.* (2014) to assert that the authors concluded that there is no evidence to show that the North Atlantic right whale vessel speed rule confers benefits to the humpback whale (West Indies DPS).

Response: As discussed above, measures to reduce the take of humpback whales (as well as other large whales) have been promulgated under the authority of the MMPA (please see our response to Comment 35). These measures implemented to protect large whales, including humpback whales, will remain in place, including those to reduce the risks of fishing gear interactions and ship strikes. The measures we have imposed to reduce the threat posed by ship strikes to North Atlantic right whales have been promulgated under the authority of the ESA and MMPA, and although these measures were keyed closely to North Atlantic right whale distribution, they are expected to help reduce risk to humpback whales to the extent that the distribution of the two species overlap. Related to this, additional actions established primarily to protect right whales almost certainly will reduce the risk of vessel collisions with humpback whales. Among these are various vessel routing measures endorsed by the International Maritime Organization and implemented domestically (Silber *et al.* 2012); one of which is expected to reduce the likelihood of fatal collisions with humpback whales by 81 percent in the relevant geographical area (*http://stellwagen.noaa.gov/science/tss.html*).

Further, we have concluded that climate change and noise do not currently place this DPS in danger of extinction or make it likely that they will become so within the foreseeable future (please see our responses to Comments 25 and 41).

Our obligations to make listing determinations under the ESA are separate and apart from our obligations under the MMPA. We cannot agree with the commenter that recognizing the improved status of this DPS under the ESA and adjusting the listing to accurately reflect that status (as we are required to do under sections 4(a)(1), 4(b)(1)(A), and 4(c)) is incompatible with our obligations under the MMPA.

Comment 40: One commenter suggested that new breakaway nets that protect whales from entanglement be required.

Response: The current action is a final listing determination addressing the status of the DPSs under the ESA on the basis of the best scientific and commercial data available. We are also categorically extending all the protections of section 9 to the threatened DPSs. It is outside the scope of this action to consider modifying or promulgating additional special protections, though we may do so in the future through a special rule under section 4(d). Nevertheless, we respond to clarify the current regulatory status of the type of protective measure to which we understand the commenter to be referring. We assume the commenter's mention of "breakaway nets" was referring to weak links that allow the gear to part under various weight tolerances, with the intention of reducing the risk of serious injury and mortality should a whale encounter trap/pot or gillnet gear. The use of weak links is already required through the regulations implementing the ALWTRP. The ALWTRP is intended to reduce the risk of serious injury and mortality of large whales caused by the incidental entanglement of large whales in U.S. commercial trap/pot and gillnet fishing gear. The ALWTRP focuses on reducing entanglements of right, humpback, and fin whales.

Comment 41: Several commenters stated that noise was a threat to humpback whales in the North Atlantic.

Response: We described the research on the effects of noise on marine mammals in the proposed rule (80 FR 22304; April 21, 2015 at 22326), and we concluded that population-level impacts on cetaceans have not been confirmed. There is little specific, reliable information regarding, for example, the interruption of breeding and other behaviors or a resulting reduction in population growth or mortality of individuals. Therefore, the BRT considered this to be a low threat for all DPSs. We agree with that conclusion.

Comment 42: Several commenters asserted that we underestimated the risks of subsistence whaling to the West Indies DPS.

Response: We disagree, and have not received any information to change our conclusion from the proposed rule. The number of West Indies DPS humpback whales killed for subsistence is very small, and the abundance of the West Indies DPS is large (10,400–10,752). Bequians in St. Vincent and the Grenadines in the Lesser Antilles currently retain an IWC "block" quota of up to 24 whales over a 6-year period (2013–2018) (IWC 2012), and 27 humpback whales were killed in Greenland between 2010 and 2012 under a 2010 IWC quota. We have determined, based on the best available information, the West Indies DPS is not threatened or endangered under the ESA, and it can sustain a small number of subsistence takes.

Comments on the Cape Verde Islands/ Northwest Africa DPS

We did not receive any comments on this DPS, other than the general comment recommending endangered status for all DPSs. This DPS is being listed as endangered (please see Cape Verde Islands/Northwest Africa DPS section).

Comments on the Western North Pacific DPS

Comment 43: One commenter expressed concern that we had combined two populations that the BRT identified as separate DPSs (Okinawa/ Philippines and 2nd West Pacific) into one DPS, the Western North Pacific DPS. According to the commenter, if we had identified them as separate DPSs, at least one of them might warrant endangered status.

Response: We concluded that combining the two putative DPSs into one DPS was the most consistent with the best available scientific and commercial information. It is not known where the "2nd West Pacific" population breeds, and therefore it cannot be classified as a separate DPS from the others, which are generally identified by breeding area. Further, whether or not identifying an entity as threatened or endangered if it is a smaller entity would lead to a different listing determination would not be an appropriate rationale for identifying that entity as a DPS. Regardless, we are listing the Western North Pacific DPS as endangered in this final rule. Please see the Western North Pacific DPS section below for our rationale for listing this DPS as endangered instead of threatened (as proposed).

Comment 44: The Fisheries Agency of Japan (Japan) commented that the Western North Pacific DPS should not be listed under the ESA, asserting that we did not provide support for suspicions about Japanese illegal, unreported, and unregulated (IUU) fishing. Japan suggested that our main rationale for proposing to list the Western North Pacific DPS as threatened was, "Some poaching is reported to occur in Korean waters and is suspected off Japan (Baker *et al.* 2002; IWC 2005c)." Japan asserted, however, that Baker *et al.* (2002) deals with only two cases: (1) A case of gray whale market products whose origin was unidentified; and (2) a case of one gray whale which was reported as "stranded" by the Japanese government but appeared to have been killed by fishermen. Japan expressed concern about the leap of logic in concluding that some poaching of humpback whales is suspected off Japan because a few cases of illegal catch of gray whales were suspected in the 1990s before the introduction, in 2001, of the system to ban the market distribution of products of whale meat not obtained legally. Japan recommended deletion of some sentences about Japanese catch/ research/entanglement, and provided some references to support its view. Japan explained that after the Government of Japan introduced a domestic regulation in 2001 requiring reporting of bycatch, the reported number of bycaught humpback whales has actually been stable with no increasing trend (*http://www.jfa.maff.go.jp/j/whale/w_document/index.html* (in Japanese); link provided by Japan). Japan argued that this fact clearly shows that the alleged increase in the number of reported entanglement/deaths lacks foundation. Also, Japan noted, no whale products derived from whales other than legally obtained ones have been found in the market sample monitoring survey (using DNA sequencing technique) conducted by the Fisheries Agency of Japan in recent years. Judging from this survey result, Japan stated, it is highly unlikely that there is substantial underreporting of bycaught whales in Japan, and Japan concluded that the assertion that "the actual number of entanglements may be underrepresented" is not persuasive. Likewise, Japan stated that IWC (2005c) reported five cases of illegal catch of minke whales, not humpback whales, in Korea in 2003. Japan believes that the precautionary approach is being abused in justifying the "threatened" status of the Western North Pacific DPS.

Response: We do not agree that our main rationale for proposing to list the Western North Pacific DPS as threatened was the reported or suspected poaching in Korean waters or off Japan. We proposed to list this DPS as threatened because of the relatively low abundance estimate (~1,100); the threats of energy development, whaling, competition with fisheries, vessel collisions, and fishing gear entanglements; significant uncertainties associated with the abundance estimates, population growth rate, and the extent of its breeding ground; and the BRT's distribution of likelihood points, which indicated a high level of uncertainty regarding overall extinction risk to this DPS. Regarding the commenter's assertion that our listing is based on an "abuse" of the precautionary approach, we disagree. Our final listing determination is based on the best available scientific and commercial information. In this case, the best available scientific and commercial information about the species' status and threats directly supports our conclusion that the Western North Pacific DPS is an endangered species under the ESA. See our response to Comment 13 for additional explanation of "best available information" and the Western North Pacific DPS section below for our rationale for listing this DPS as endangered instead of threatened (as proposed).

With regard to the comments about illegal catches and bycatch, we note that what was discussed were IUU takes; by definition these takes are not necessarily illegal, but may be unreported or unregulated. Market survey results from 2001–2009 in Japan have documented concerns for IUU takes from stocks of at least six species of whales, including humpback whales; the others are sei, Bryde's, gray, North Pacific minke, and fin whales (Baker *et al.* 2015 SC/66a/ SD2; Steel *et al.* 2009 SC/61/BC8, Baker *et al.* 2008 SC/60/BC2, Baker *et al.* 2007 SC/59/BC9). This includes the possibility of the sale of whale meat from undocumented sei and fin whales from the Southern Hemisphere, and of a greater number of individual fin whales than expected from reports of bycatch. Therefore, recent IUU of large whales in this region remains possible. We do not agree that bycatch of humpback whales has not increased; using Japan's Progress Reports to the IWC, and numbers provided by the Japan Fisheries Agency for years for which no Progress Report was provided to the IWC, there has been a significant increase in bycatch of humpback whales in Japan from 2000 to 2015 (*e.g.,* an average of 2.4 whales per year in 2000–2004, versus an average of 6.2 whales per year in 2010–2015).

Comment 45: Japan and another commenter noted that the abundance estimate of the Western North Pacific DPS is 1,000 and its growth rate is 6.9 percent (p.64–65 of the proposed rule; 80 FR 22303; April 21, 2015 at 22318). Japan stated that the annual number of bycaught humpback whales in Japan for the last 5 years is six individuals on average, well below one percent of the total abundance and the growth rate. Japan argued that this shows that the bycatch of humpback whales in Japan has no adverse impact on the status of the Western North Pacific DPS.

Response: Calambokidis *et al.* (2008) estimated the growth rate for humpback whales in the Western North Pacific to be 6.9 percent between 1991–93 and 2004–2006, although this could be biased upwards by the comparison of earlier estimates based on photo-identification records from Ogasawara and Okinawa with current estimates based on the more extensive records collected in Ogasawara, Okinawa, and the Philippines during the Structure of Populations, Levels of Abundance and Status of Humpback Whales in the North Pacific (SPLASH) program (Calambokidis *et al.* 2008). However, the overall number of whales identified in the Philippines was small relative to both Okinawa and Ogasawara, so any bias would likely not be large. Given the possible bias in the rate of increase and the fact that it represents a combination of two populations that the BRT had proposed as separate DPSs (Okinawa/Philippines and Second West Pacific), it is not possible to make a definite statement about the rate of increase of the Western North Pacific DPS. Therefore, we conclude that the population growth rate for the Western North Pacific DPS is unknown, as we stated in the Conclusions on the Status of Each DPS Under the ESA section of our proposed rule (80 FR 22304; April 21, 2015 at 22349).

The BRT concluded that, given the relatively low abundance of the Philippines/Okinawa portion of this DPS (~1,000 individuals), fishing gear entanglement could seriously reduce its population size or growth rate. Given this conclusion, and the BRT's uncertainty about the threats facing the Second West Pacific portion of this DPS, we cannot conclude that bycatch of humpback whales in Japan or anywhere else is not having an impact on the status of the Western North Pacific DPS. Please see the Western North Pacific DPS section below for our rationale for listing this DPS as endangered instead of threatened (as proposed).

Comment 46: Japan notes that the points raised above are all related to Japan. In order to evaluate the status of the Western North Pacific DPS, a similar examination should be done of all relevant countries that could impact the status of this DPS. Japan notes that the proposed rule states, "Some degree of IUU exploitation is also possible in other regions within the range of humpback whales in the Western North Pacific DPS, including Taiwan and the Philippines, given past histories of whaling" (80 FR 22304; April 21, 2015 at 22332)." But, Japan argues, no descriptions of past histories or references are presented. Japan argues that without such descriptions to support the possibility of IUU exploitation in those other regions, statements that IUU exploitation is possible have no basis and cannot be raised as evidence to support the "threatened" status of the Western North Pacific DPS. Japan notes that any information on stranded, beached, bycaught, and/or landed whales can be easily and promptly shared through the internet. Such a circumstance, being combined with the market-sample monitoring, makes it quite difficult, if not impossible, to hide illegal harvesting/products from the public in Japan.

Response: The statements we made in the proposed rule about possible exploitation in other regions within the range of the Western North Pacific DPS, given past histories of whaling, were clearly labeled as not being based on specific supporting documentation; rather, our evaluation was based on our professional judgment. Further, our final listing of this DPS as endangered is based on consideration of objective factors using the best available scientific and commercial information, as explained in the responses to Comments 44 and 47 and in the Western North Pacific DPS section.

Comment 47: One commenter recommended delisting the Western North Pacific DPS because information not cited in the proposed rule (Okamoto 2013) indicates the DPS is recovering at a rate similar to other North Pacific DPSs, and threats identified by NMFS do not appear to be negatively impacting them. The commenter asserted that NMFS' analysis of threats was speculative and overestimated. Further, the commenter stated that additional surveys independent of SPLASH have been conducted in Okinawa and Ogasawara, indicating the population is increasing in abundance (unpublished study in Okinawa, by Kato: 1989–2008 (16.9 percent growth rate); 2009–2028 (3 percent growth rate), reaching pre-exploitation abundance in 2029; and Okamoto (2013), indicating a 4-fold sighting increase in abundance from 1997 to 2013 from 0.06 individuals to 0.24 individuals per nautical mile (nmi) in Okinawa). The commenter adds that pre-exploitation abundance in the Okinawa area of this DPS is likely to be smaller (~1,500 individuals) than what was considered by NMFS.

Response: We reviewed Okamoto (2013) for the proposed rule, but we did not consider it to provide enough information to be reliable. The Okamoto (2013) study consisted of a visual survey of whales in the Ogasawara area conducted on one day (January 30, 2013), which was compared to a similar previous survey conducted in 1997 (cited as Yoshida and Kato 1999, but with no other information given). While it is encouraging that Okamoto (2013) reports a higher encounter rate around Ogasawara in 2013, given the nature of this study, there are other reasons that different encounter rates might have occurred on the two surveys, so the results cannot be used to conclude there has been an increase in abundance. Survey data such as this need to be analyzed using line transect methods to take account of differing abilities to detect whales, which could occur because of differences in variables such as vessel type or weather conditions, for which no information was provided. Additionally, no estimates of precision (such as confidence limits) were calculated for either estimate of encounter rate. Finally, the BRT concluded, and we agree, that the Ogasawara area is an area through which humpback whales migrate on the way to their feeding grounds. Therefore, the number of whales in a location such as Ogasawara is highly dependent upon the timing of the survey and the timing of migration of the whales. No date is given for the 1997 survey, so if it occurred earlier or later in the migration, this could account for the lower encounter rate. Moreover, it is not clear that a survey on a single day could reliably track abundance in a migratory area if the timing of migration varies between years; a more reliable survey design would be to have repeated surveys across a longer time period than a single day.

We have reviewed the more recent information provided by the commenter (Kato, unpublished), but this study is also not reliable. This information consists of a 2014 abstract of Mr. Nobuyuki Suzuki's undergraduate thesis, supervised by Professor Hidehiro Kato, which reported an abundance estimate of 683 (CV = 0.10) humpback whales migrating to the research area around the Okinawa main islands in 2009 and an estimated average annual rate of increase of 16.9 percent (no confidence limits reported) from 1989–2008 and 3.0 percent from 2009–2028. A growth rate of 16.9 percent is not biologically plausible (Zerbini *et al.* 2010), so without further information it is difficult to know how to interpret this estimate. We were not able to review the undergraduate thesis itself, and not enough information is given to understand exactly how the analysis and modeling was conducted, and whether the thesis was submitted for any external peer review. Further, this study focused on whales around Okinawa, but the Western North Pacific DPS also includes whales from breeding areas in the Philippines and other unidentified areas, so the estimated growth rate does not necessarily reflect the growth rate of the entire DPS. Finally, we do not consider the estimate of pre-exploitation abundance (from the 2014 abstract of the undergraduate thesis) in the Okinawa area of this DPS to be reliable; as we have described, the migration of North Pacific humpback whales is complex and the thesis appears to have ignored the fact that the Asia population would have also experienced commercial whale catches on its summer feeding areas in Russia, the Aleutian Islands, and the Bering Sea. In any case, given the relatively low abundance of this DPS, several other remaining threats, and the significant uncertainties associated with the abundance estimate, we have changed our listing determination for this DPS, and we list it as endangered under the ESA instead of threatened (as proposed). Please see the Western North Pacific DPS section below for our rationale for this change.

Comment 48: One commenter suggested that there is no information provided in the proposed rule's discussion of the proposed Western North Pacific DPS that allows an understanding of the BRT's level of concern given the admittedly low population size, unknown trend, and the fact that there is an acknowledgement that threats from energy development, whaling, competition with fisheries, and vessel collisions are considered moderately likely to reduce the population size or growth rate of this small, "remnant" population. Further, this commenter states, there is an acknowledgement that "there is great uncertainty" regarding threats and status of this proposed DPS. This commenter believes that we should have applied the precautionary approach in the face of this uncertainty. The commenter included a citation to the decision in *Greater Yellowstone Coalition, Inc.* v. *Servheen,* 665 F.3d 1015 (9th Cir. 2011).

Response: We are required to use the best available scientific and commercial information when making ESA listing determinations. We are not required to consider only information that is free from uncertainty. Although there are threats to this DPS and there is some uncertainty as to the particular effects, we and the BRT viewed those threats against the backdrop of the population level, which at around 1,000 is higher than the level (500) that would indicate the population is at high risk from small size alone.

The situation here is distinguishable from that which was reviewed in the *Greater Yellowstone Coalition* case. There, FWS had decided to delist the Yellowstone population of grizzly bears, concluding without adequate explanation that changes in whitebark pine production were not likely to impact the bear to the point at which it would be threatened. FWS reached this conclusion despite the fact that the record documented a close association between reduced abundance of whitebark pine seeds and increases in grizzly mortality, recent reductions in whitebark pine due to pine beetles, and a potential for climate change to drastically affect the presence and distribution of whitebark pine seeds. The court found that the decision to delist the Yellowstone grizzly population could not rationally be reconciled with those particular facts in the record. The record before us does not present the kinds of documented effects that were present in the grizzly bear case.

Nevertheless, we have found that, upon reconsideration of the best available information, the Western North Pacific DPS should be finalized as an endangered species instead of as a threatened species as proposed. Please see the Western North Pacific DPS section for our rationale for listing this DPS as endangered and our response to Comment 13 for discussion of the precautionary approach.

Comments on the Hawaii DPS

Comment 49: The State of Alaska concurs with our proposal to not list the Hawaii DPS (which is consistent with Alaska's petition) and to list the Western North Pacific DPS as threatened. The State believes that any potential threats to the Hawaii DPS from human disturbance can be controlled through continued monitoring and management under the MMPA, the Magnuson-Stevens Act, the Fisheries Act of Canada, and SARA, as well as the IUCN, IWC, and the CITES. The State goes on to say that information on the Western North Pacific DPS is limited, particularly regarding the wintering/breeding area used by the whales that feed in the Aleutians and western Bering Sea. It notes that individual whales from the Western North Pacific DPS (proposed to be listed as threatened) and Hawaii DPS will mix to some extent during the summer in the Aleutians and the Bering Sea. As a result, ESA section 7 consultations are likely to continue in the area of overlap because of the difficulty in distinguishing between individuals of the two DPSs.

Response: We agree with the State of Alaska that the areas where individuals of a listed DPS mix with individuals of a DPS that is not listed will result in difficulty in distinguishing between individuals of the two DPSs. Any Federal agency that funds, authorizes, or carries out an action that may affect a listed DPS is required to consult with us under section 7 of the ESA, so this means that, in these areas where DPSs of different status mix, section 7 consultation will still be required to ensure that the threatened and endangered DPSs are protected under the ESA. Please see response to Comment 11, and the Western North Pacific DPS section for our rationale for listing the Western North Pacific DPS as endangered instead of threatened (as proposed).

Comment 50: One commenter fully supports delisting the Hawaii DPS, emphasizing that the Hawaii-based commercial longline fisheries have no significant or detectable impact on the Hawaii DPS (or humpback whales from any other DPS), and any regulation of the fisheries that may be necessary with respect to humpback whales is amply addressed by the rigorous provisions contained in section 117 of the MMPA.

Response: We acknowledge the comment. Fisheries that interact with marine mammals are regulated under section 118 of the MMPA, so this will provide a mechanism for continued monitoring and evaluation of the impacts of fisheries on humpback whales. We note that the Hawaii-based longline fisheries have been determined to have negligible impacts on humpback whales (79 FR 24567; October 16, 2014).

Comment 51: One commenter stated that a recent assessment found that 78 percent of whales in northern Southeastern Alaska had been non-lethally entangled in fishing gear (Neilson *et al.* 2009).

Response: Entanglement in fishing gear remains a risk to large whales worldwide. Though these interactions occur in many regions, including the cases referred to in Southeast Alaska, many are non-lethal (Bradford and Lyman 2015) and collectively they do not rise to a population level impact for the Hawaii DPS (which comprises most of the humpbacks found in Southeast Alaska). The Hawaii DPS has continued to grow rapidly in spite of occasional entanglements. As required under the MMPA, we assess marine mammal serious injury and mortality levels resulting from human interactions, and monitor these levels against the thresholds for removal that have been calculated as sustainable for the population. We collect, analyze, and respond to large whale entanglement reports through the Marine Mammal Health and Stranding Program.

Comment 52: One commenter noted that collisions of humpbacks and ships appear to be increasing in important breeding areas such as Hawaii (Lammers *et al.* 2003) and that available evidence also suggests that ship strikes are increasing in Alaska (Gabriele *et al.* 2007).

Response: In general, it is difficult to conclude that ship strike levels are definitively increasing based on an increase in reports. For instance, in Alaska, following the implementation of a stranding hotline in 2009, many types of stranding reports increased, likely due to heightened public awareness. That said, large whale ship strikes reported to NMFS in Alaska have been fairly steady over the past decade (NMFS Alaska Region Stranding Program data). Most collisions in Alaska involve small recreational vessels or whale watch boats with no apparent long-term consequences for the whale. NMFS is actively working with sectors of the maritime industry on ship strike avoidance and awareness programs.

In Hawaii, Lammers *et al.* (2013) estimated that vessel collisions (*i.e.,* any physical contact between a humpback whale and a vessel) increased 20-fold between 1976 and 2011, particularly between 2000 and 2011. As in Alaska, an extensive educational campaign and hotline number were initiated in 2003 and likely contributed to the increased number of reports of vessel collisions. However, the authors concluded that increasing numbers of humpback whales in Hawaii was an important contributor to the trend. They also suggest that an increase in the number of vessels of a specific size and changes in behavior of vessels around humpback whales could affect the rate of vessel collisions. Although the total number of registered vessels in Hawaii has not significantly increased in recent years, registered vessels sized between 7.9 m and 19.8 m has significantly increased. Approximately two thirds of reported collisions involved vessels that were within the 7.9 m to 19.8 m length range (Lammers *et al.* 2013).

See the *Comments on the Need for Approach Regulations* section for details on our plans to implement approach regulations in Alaska and Hawaii.

Comment 53: One commenter noted that NOAA can take pride in the improved status of the species, but too many risks still abound and the humpback whale is nowhere near its historical numbers. The commenter indicates that whale strikes from tour ships and commercial vessels are on the increase each year, noticeably in Southeast Alaska where the number of docks to accommodate them continually increases. The number of whale watching boats also increases every year. One study finds the whales are adapting, but vigilance is warranted. The commenter also stated that Alaska is also in the forefront of experiencing the effects of climate change. In northern Alaska, delisting may ease the way for underwater oil exploration. In Auke Bay, coastal development has been excessive. Another commenter stated that there are no boat speed limits in Hawaiian waters or limits on fish nets, adding that limits are needed on krill fishing in Alaska. Further, removing endangered status from the humpback whale will weaken legal protections that might limit the Navy's behavior toward the ocean (high speed ships, active sonar).

Response: The threats mentioned in this comment are described very generally, and we have no indication that they will negatively impact humpback whale DPSs on a population level. These whales will still be protected under the MMPA, which prohibits *take* and requires that marine mammal stocks are maintained at *optimum sustainable population* levels. We considered the potential for new threats in developing our proposed determinations, and we conclude that these threats are not likely to increase the risk of extinction to any of the DPSs not being listed to the point where they would warrant listing under the ESA. Finally, it is important to note that the Monitoring Plan we are issuing today pursuant to section 4(g)(1) of the ESA establishes a framework for continued monitoring and assessment of threats for the next 10 years (twice the minimum 5-year monitoring window required by the ESA). The risk of vessel collisions will be addressed through the approach regulations (See the *Comments on the Need for Approach Regulations* section for details on our plans to implement approach regulations in Alaska and Hawaii).

Comment 54: One commenter feels that now, more than ever, the Hawaiian Islands Humpback Whale National Marine Sanctuary should assume a leadership role in drafting a comprehensive management plan for Sanctuary waters that will assist in ensuring the species' lasting survival. A comprehensive ESA status review, coupled with an updated and comprehensive Sanctuary management plan, should be completed prior to any discussion of species delisting.

Response: NOAA's Hawaiian Islands Humpback Whale National Marine Sanctuary is developing a revised management plan based on the relevant elements of the March 2015 draft management plan that focused on humpback whales and their habitat. NOAA will work with the State of Hawaii and the Sanctuary Advisory Council on this revised management plan. However, while we must consider ongoing conservation efforts when making ESA listing determinations, the ESA does not provide for extending the timeframe to act on a proposed rule to implement ESA listing determinations in order to incorporate other management plans. Therefore, we are finalizing our proposed rule to revise the listing status of the humpback whale.

Comment on the Mexico DPS

Comment 55: One commenter noted that NMFS stated that the Mexico DPS has no trend information, yet NMFS is not listing it as endangered.

Response: While we do not have trend information for the Mexico DPS by itself, there is population growth in most of its primary feeding areas, and this led us to conclude that it is unlikely to be declining, as we explained in the proposed rule (58 FR 22304; April 21, 2015). The abundance estimate we relied on in our proposed rule for this DPS was 6,000–7,000, and this abundance estimate, along with available information on the species' response to ongoing threats, indicated to us that the Mexico DPS was not in danger of extinction throughout all or a significant portion of its range or likely to become so within the foreseeable future. However, the abundance estimate has been updated to 3,264 (CV = 0.06), and we now conclude, in light of the ongoing threat of fishing gear entanglements which are believed likely to have a moderate impact on this DPS, that the Mexico DPS is threatened. Lack of definitive information on a growth rate trend alone is not determinative of a listing determination, which is based primarily on an assessment of threats to the species and consideration of whether the current abundance is sufficient to provide resilience against those threats. Here, however, in combination with these other considerations, we conclude that it does support a determination of "threatened" for the Mexico DPS. (See the Mexico DPS section below for the rationale for our final listing determination.)

Comments on the Central America DPS

Comment 56: Several commenters stated that the Central America DPS should remain endangered, not threatened, because there are only 500–600 individuals, and the BRT concluded that 500 individuals indicates a high risk of extinction due to low abundance. One of these commenters noted that, according to the status review report, the population trend is unknown, and vessel strikes and fishing gear entanglement are likely to moderately reduce population size or growth rate. The other commenter noted that there were many uncertainties associated with the abundance estimate. Also, one of the commenters stated that this DPS may serve as a conduit for gene flow between the North Pacific and the Southern Hemisphere. The Government of Costa Rica agreed that the SPLASH study results clearly show that the Central America DPS is smaller than the Hawaii and Mexico DPSs and that the distinction would facilitate the management and protection of this segment of the population that uses the waters of Central America for the purpose of breeding and reproduction.

Response: We have reconsidered our proposal, and we conclude that the Central America DPS should be listed as endangered under the ESA. The BRT reported that a preliminary estimate of abundance of the Central America population was about 500 from the SPLASH project (Calambokidis *et al.* 2008), or about 600 based on the reanalysis by Barlow *et al.* (2011). There are no estimates of precision associated with these estimates, so there is considerable uncertainty about the actual population size (Bettridge *et al.* 2015). Therefore, the actual population size could be somewhat larger or smaller than 500–600. Even though the BRT used 500 as a guideline between moderate and high risk of extinction (when considering abundance alone), the abundance estimates include a high level of uncertainty, and we note that this number straddles that threshold. The BRT concluded that this DPS was between "moderate" and "high risk of extinction." After reconsidering all of the available information, we believe it is appropriate to give greater weight to the threats facing the Central America DPS, and we are now listing the DPS as endangered in this final rule. An updated abundance estimate of 411 for the Central America DPS (Wade *et al.* 2016) provides further support for this conclusion (Please see the Central America DPS section for further rationale.)

Comment on the Brazil DPS

Comment 57: One commenter noted that the abundance estimate for the proposed Brazil DPS is from the 1990s and the citation for its entanglement risk is from a 1998 study reporting that calves are most heavily involved (a possible challenge to future reproduction). The commenter stated that although it is clear that mortality is ongoing and NMFS stated in the status review report of this DPS that there is "no current estimate of mortality," it proposed to remove ESA protection from this DPS.

Response: The commenter's claim that the abundance estimate was based on data from the 1990s is incorrect. In the proposed rule (58 FR 22304; April 21, 2015), we cited Andriolo *et al.* (2010), a study that is based on aerial surveys conducted off the coast of Brazil in 2002–2005. However, the population growth rate estimate is based on data from the 1990s (Ward *et al.* 2011), which is the best available information. Because the abundance estimate is 6,400 with a 7.4 percent growth rate, the BRT concluded that the Brazil DPS was at low risk of extinction. Based on this, we concluded that, despite the presence of threats, the Brazil DPS does not meet the definition of a threatened or endangered species.

Comment on the Gabon/Southwest Africa DPS

Comment 58: One commenter noted that NMFS stated that the Gabon/Southwest Africa DPS has no trend information, yet NMFS is not listing it as endangered. Another commenter stated that abundance estimates for the Gabon/Southwest Africa DPS are cited to a 2008 "unpublished" paper that is also inaccessible to the public.

Response: With regard to the comment that we are not listing the Gabon/Southwest Africa DPS as endangered, despite having no trend information, please see our responses to Comments 10 and 13. In all cases, we have based our listing determinations on the best available scientific and commercial information, as required by the ESA. There is no requirement that we have specific trend information where the data establish that the species is not currently endangered or threatened.

Regarding the comment on the abundance estimates being based on an "unpublished" paper, the paper we relied on (Collins *et al.* 2008) was submitted to the IWC Scientific Committee (Collins *et al.* 2008), and the commenter is correct, it was not (to our knowledge) and will not be published. This paper is available to the public because we have it in our files and can provide it upon request. Nonetheless, we note that our final listing determination does not rely on that information. We have reviewed two more recent papers (Collins *et al.* 2010, with abundance estimates of 4,314 (CV = 0.19) for 2001–2004 and 7,134 (CV = 0.23) for 2004–2006) and the IWC (2012) assessment of the Gabon stock for 2005, which reported an abundance estimate of 9,484 (90 percent prediction interval (PI) = 7465, 12221) and a growth rate of 0.045 (90 percent PI = 0.006, 0.081)).

The estimates in Collins *et al.* (2008) had a fairly substantial genotyping error rate that would produce false negatives (missed matches), so Collins *et al.* (2010) corrected for this using an estimate of genotyping error rates that they estimated by repeat genotyping of a subset of the samples. The Collins *et al.* 2010 paper was reviewed in depth by the Southern Hemisphere subcommittee of the IWC Scientific Committee. In the IWC (2012) assessment, this committee decided that the best data to use were the male-only genetic mark-recapture data (the data that gave the estimate of 7,134 (CV = 0.23)), and we agree.

The IWC (2012) abundance estimate of 9,484 is an output from a very complicated assessment model. Although in principle it is appropriate to use model-based estimates like this, the BRT did not do so in any other cases in its review, and this estimate is from a model that involved multiple stocks and is thus not directly informative. Therefore, we will not rely on this model output (and it does not make any difference to our evaluation of extinction risk).

Further, the "estimate" of population growth rate in IWC (2012) should not be used as an estimate of trend; the IWC (2012) report makes this same conclusion. This was also a model output from its Bayesian assessment model, and IWC (2012) explains that this is not an estimate; rather, it is something that was pre-specified. We agree that it is better not to rely on this model output as an estimate of population trend.

Despite the threat of offshore hydrocarbon activity off the coast of west Africa, the BRT concluded that this DPS was not at risk of extinction, and we agreed with the BRT's assessment. The updated abundance estimate for this DPS is still significantly larger than 2,000, which is the population size above which the BRT considered a DPS not to be likely to be at risk due to low abundance alone. We reaffirm our proposed determination that the Gabon/Southwest Africa DPS is not in danger of extinction throughout all or a significant portion of its range or likely to become so within the foreseeable future.

Comments on the Southeast Africa/Madagascar DPS

Comment 59: One commenter asserted that there is a considerable discrepancy in population estimates cited in the status review report and derived from surveys in 2004–2006, almost a decade ago. This commenter added that various data sets and models resulted in best estimates ranging widely from 4,936 to 8,169. With regard to trend information, this commenter noted, NMFS cited land-based observations passing east South Africa that included an estimate of the rate of population increase of 12.3 percent (which NMFS acknowledges is ‘‘outside biological plausibility for this species’’) and a second estimated increase of 9 percent that NMFS stated is within the range calculated for other Southern Hemisphere breeding grounds; yet it still stated that ‘‘both rates are considered with caution.’’ This wording regarding abundance and trend incorporates a great deal of uncertainty (*i.e.,* wide range of population estimates, words including ‘‘possibly,’’ ‘‘to a smaller degree,’’ should be ‘‘considered with caution’’) and NMFS itself states that ‘‘given this uncertainty . . . it is likely the DPS is increasing but it is not possible to provide a quantitative estimate of the rate of increase.’’ The commenter concludes that NMFS’ conclusion is subjective, risk prone, and inappropriate under the ESA.

Response: Please see our response to Comment 13.

Comments on the West Australia DPS

Comment 60: One commenter asserted that the best abundance estimate for the West Australia DPS provided in the status review report is 21,750, based on a 2009 paper reporting on results of line transect surveys and with an estimated 10 percent annual rate of increase that is at the approximate limit of biological plausibility. This commenter stated that a more recent study by Kent *et al.* (2012) provided caveats in this estimate but provided a ‘‘best estimate’’ of 26,100 (CI = 20,152–33,272) and a rate of increase of 10–12 percent annually with a large coefficient of variance, precluding a reliable trend estimate.

Response: The work cited by the BRT had documented an ~10 percent rate of increase between 1982 and 1994 (Bannister 1994), and semi-quantitative information indicated the population had been increasing steadily since the 1960s. Then Paxton *et al.* (2011) estimated an increase of 9.8 percent between 1999 and 2005, and Hedley *et al.* (2011) estimated a continued increase on the order of 12.5 percent between 2005 and 2008. The Kent *et al.* (2012) study cited by the commenter used completely different data from a different location, but still estimated an increase of 13 percent (CI = 5.6 percent − 18.1 percent) for the period 2000–2008. When Kent *et al.* (2012) combined the two data sets, they estimated an 11.9 percent (SE = 2.6 percent) growth rate for 1999–2008. The West Australia DPS of the humpback whale is, by any measure, very large, and has been steadily increasing for decades at one of the highest measured growth rates of any whale.

Kent *et al.* (2012) noted that the coefficient of variation for the 13-percent growth rate estimate was too large for a reliable trend estimate. Zerbini *et al.* (2010) had calculated that 11.8 percent should be a maximum plausible growth rate for humpback whales. However, it is important to keep in mind the nature of precision and statistics, where the estimate can be larger than the true value. One would need an extremely precise estimate to be able to tell if a growth rate estimate is significantly greater than the theoretical maximum of 11.8 percent calculated by Zerbini *et al.* (2010).

Comments on the East Australia DPS

We did not receive any substantive comments on this DPS, other than the general comment recommending endangered status for all DPSs and DPS-related comments (see responses to Comments 3 and 4).

Comments on the Oceania DPS

Comment 61: One commenter noted that NMFS stated that the Oceania DPS has no trend information, yet NMFS is not listing it as endangered.

Response: We based our proposal on the best available scientific and commercial information. As noted elsewhere, the ESA does not require that we have trend information in order to make a determination under section 4(a)(1). The humpback whale status review report cited a preliminary report that estimated humpback whale abundance in the Oceania DPS (New Caledonia, Tonga, French Polynesia, and Cook Islands) as 3,827 (CV = 0.12) in 1999–2004 (South Pacific Whale Research Consortium *et al.* 2006). This abundance estimate is large (>2,000) and, despite the unknown population trend, we determined that the DPS was at low risk of extinction throughout all or a significant portion of its range, currently and in the foreseeable future.

Since the BRT’s review and publication of the proposed rule, we became aware of a more recent publication (Constantine *et al.* 2012), which included updated data from 2005 and a new analysis that included genetic data to better account for differences in capture probability between individuals.

We have considered this study for our final rule. This more recent publication (Constantine *et al.* 2012) presents an improved estimate of abundance in the region (4,329, 95 percent CI = 3,345–5,313) in 2005 and new estimates of population growth rate (3–7 percent/year for 1999–2005). There is now published evidence that this population is growing. The previous abundance estimate and available information on the species’ response to ongoing threats indicated that the DPS was not in danger of extinction throughout all or a significant portion of its range or likely to become so within the foreseeable future. The new estimate of population growth rate provides further support for this conclusion.

Comment 62: One commenter noted that a single DPS (Oceania DPS) has been proposed for the range of breeding sites across the South Pacific Ocean basin from New Caledonia to French Polynesia and that NOAA also proposes to remove all protections under the ESA. The commenter notes that, last year, the Scientific Committee of the IWC completed an assessment of the recovery status of whales that breed in this region, concluding that these breeding populations had only recovered to within 37 percent of pre-whaling numbers as of 2012 (IWC 2015). This commenter notes that this is well below the 60 percent recovery threshold that was originally proposed as indicative of recovery under the final recovery plan. Furthermore, it is far below apparent recovery of adjacent breeding stocks off west and east Australia (90 percent and 63 percent, respectively). The reason for this relatively low recovery rate is not known, but this commenter believes that it is adequate cause for continuing concern and listing under the ESA.

Another commenter asserted that the proposal to identify and delist the Oceania DPS is troubling, given the major uncertainties underlying stock definition and status. This commenter noted that the BRT itself showed substantial concern for this DPS (29 percent of the votes cast by the NMFS’ BRT were suggesting a ‘‘moderate risk’’ of extinction for this DPS). The commenter stated that almost half of the BRT votes were in the same "moderate risk" of extinction category for the Okinawa/Philippines population, which, together with the Second West Pacific portion of the Western Pacific DPS, NMFS ultimately proposed for listing as "threatened." This commenter expressed the opinion that these distributions of votes should have translated to equivalent levels of protections for the Oceania and Western North Pacific DPSs.

The commenter added that numerous studies indicate that humpback whales in the Oceania DPS move among different island nations and mix with individuals in the East Australia DPS (Garrigue *et al.* 2000; Garrigue *et al.* 2010; Hauser *et al.* 2010) and asserted that Garrigue *et al.* (2000) concluded, "[t]he documented movement of some whales among portions of Oceania indicate that stock assessments based on combining regional estimates of abundance are likely to be positively biased. In contrast with the apparent recovery exhibited in Area IV and in the western portion of Area V, humpback whale abundance appears to remain low in Oceania, presumably because of overexploitation in the feeding grounds of Area VI." This commenter stated that Hauser *et al.* (2010), not cited by NMFS in the status review report or the proposed rule, stated, "the feeding ground connections with breeding areas in Oceania are among the poorest known, as is the degree of movement between different areas in the southwestern South Pacific." Further, the commenter noted, Garrigue *et al.* (2006) analyzed whales from New Caledonia and Tonga using both photo- and genetic-ID and found "significant differences in the F_{ST} and Φ_{ST} for mitochondrial and nuclear markers, strongly suggesting differentiation among the Breeding Stock E, supporting the proposed sub-stock division for New Caledonia (E2) and Tonga (E3)." The commenter asserted that NMFS arbitrarily lumped these various areas into a single DPS without explaining why they constitute a single breeding stock that differs from the IWC management scheme and contradicts observations of researchers whose work suggests a complex situation within breeding grounds in which there may be either mixing of stocks or, contrarily, isolation in and between different areas within the region.

The commenter further noted that NMFS indicates there is no trend information available, the DPS is "quite sub-divided," and the population estimate applies to an aggregate "although it is known that sub-populations differ in growth rates and other demographic parameters" (Bettridge *et al.* 2015 at 100). The commenter stated that NMFS also acknowledged that some areas of the historical range extent have not rebounded and there are others without historical whaling information to indicate pre- and post-exploitation levels. Most recently, the commenter adds, the Scientific Committee of the IWC concluded in a stock assessment that ". . . complexities in Oceania require further investigation due to inadequate stock structure definition across the broad area, a lack of population trend data for most of the region, and a lack of resolution and understanding of connectivity in eastern Oceania" (IWC Scientific Committee 2015). The commenter adds that both the **Federal Register** notice and the status review report acknowledge that "[t]here is uncertainty regarding which geographic portion of the Antarctic this DPS uses for feeding. The complex population structure of humpback whales within the Oceania region creates higher uncertainty regarding demographic parameters and threat levels than for any other DPS."

To draw an analogy, the commenter asserted that the uncertainties underlying the proposed Cape Verde Islands/Northwest Africa DPS are a major part of the rationale for NMFS' determination to leave an area around Cape Verde Islands classified as endangered. However, the commenter stated, in the face of similar uncertainty regarding the proposed Oceania DPS, NMFS proposed to delist these humpback whales despite admitting that it has no reliable population abundance or an estimate of trend(s) in the various sub-divided areas in the region, and despite acknowledging that the area used for feeding grounds is unknown. This is particularly troubling to the commenter, considering that the agency admits that there is a higher "uncertainty regarding demographic parameters and threat levels [for the proposed Oceania DPS] than for any other DPS."

Response: As we explained in the proposed rule (80 FR 22304; April 21, 2015 at 22317), the 1991 Humpback Whale Recovery Plan did not identify specific numerical targets based on the recovery criterion that populations grow to at least 60 percent of their historical (pre-hunting) abundance because of uncertainty surrounding historical abundance levels. Further, the Recovery Plan focused on the North Pacific and North Atlantic populations, so recovery criteria outlined in the Recovery Plan would not necessarily apply to DPSs in the Southern Hemisphere. Please see our response to Comment 8.

The 1991 recovery plan recommended an interim goal of doubling the population size of the humpback whale within 20 years because of uncertainty surrounding historical abundance levels. However, as we explained in our proposed rule (80 FR 22304; April 21, 2015 at 22316–22317) and in our response to Comment 8, the BRT focused its biological risk analysis primarily on recent abundance trends (where available) and whether absolute abundance was sufficient for biological viability in light of consideration of the factors under section 4(a)(1). See *Rationale for Revising the Listing Status of a Listed Species Under the ESA* and our responses to Comments 8 and 10 for an explanation of why we do not need to meet recovery criteria in a recovery plan and why evaluating whether the population size has met the interim growth rates for specific years is not the best methodology for evaluating extinction risk. We considered the best available scientific and commercial information, and we determined that the abundance of the Oceania DPS (and now, the population trend estimate, as discussed in our response to Comment 61) is at a level that demonstrates resilience against threats and does not support a listing as threatened or endangered under the ESA. Moreover, as we have explained in response to other comments, the Services may at any time apply the section 4(a)(1) factors directly in considering the appropriate listing status for a species and is not bound to apply the recovery criteria, which are merely proxies for those factors.

Next we respond to the commenter who asserted that the BRT's allocation of 29 percent of likelihood points to the "moderate" risk of extinction category for the Oceania DPS should have translated to equivalent levels of protections for the Oceania and Western North Pacific DPSs because the BRT allocated less than half of its likelihood points to the "moderate" risk of extinction category for the Okinawa/Philippines portion of the Western North Pacific DPS. The BRT allocated 44 percent of its likelihood points to the "moderate" risk of extinction category and 36 percent to the "high" risk of extinction category for the Okinawa/Philippines portion of the Western North Pacific DPS, and 47 percent of its likelihood points to the "moderate" risk of extinction category and 14 percent to the "high" risk extinction category for the Second West Pacific portion of this DPS. For the Oceania DPS, the distribution of points was quite different in that 68 percent of the points were allocated to the "not at risk of extinction" category, reflecting much more certainty about the low level of extinction risk of this DPS compared to that for the Western North Pacific DPS (which will now, coincidentally, be listed as endangered under this final rule). We see no parallel between these two examples.

The comparison the other commenter made between the Oceania and Cape Verde Islands/Northwest Africa DPSs is not valid. We have a much higher abundance estimate for the Oceania DPS (approximately 4,300 whales compared to less than 100 for the Cape Verde Islands/Northwest Africa DPS), good information on where whales are, some information about movements between areas, and a fair degree of reliability around the abundance estimate. In contrast, there is a great lack of knowledge and study of the Cape Verde Islands/Northwest Africa DPS, and only one genetics study that indicates there is more than one breeding population for humpback whales feeding in central and eastern North Atlantic. It is appropriate to use additional caution in the case of the Cape Verde Islands/Northwest Africa DPS, given the considerable uncertainty about where the central and eastern North Atlantic animals breed and the likelihood that the abundance of this DPS is extremely low (less than 100).

We know there are significant genetic differences between some of the regional breeding grounds within the Oceania DPS, but, unfortunately, there are no accepted estimates of abundance for some of the regions currently aggregated into the Oceania stock (*e.g.,* Tonga, French Polynesia). Even if we had reliable regional estimates, we have no way of allocating the historical catches in the Antarctic feeding grounds to regional breeding grounds, with confidence. Therefore, the IWC chose to undertake the comprehensive assessment for Oceania as an aggregate, and the BRT took this same approach. The commenter who expressed concern about the likelihood of a positively biased estimate for the Oceania DPS because of the exchange among areas makes a good point. On the other hand, abundance estimates are also likely to be negatively biased because we are almost certainly not surveying some significant habitats within the vast area of Oceania, and as a result, there are probably many whales with a zero probability of capture in the survey years that lead to abundance estimates. Please see our response to Comment 5 for an explanation of why statistically significant differences between populations are not sufficient justification for identifying DPSs.

Comment 63: One commenter noted that the longest humpback whale migration on record is not from Costa Rica to Antarctica (Rasmussen *et al.* 2007) as stated on page 24 of the proposed rule (80 FR 22304; April 21, 2015 at 22308); rather, they state, the longest minimum return movement has been documented as 18,840 km from American Samoa to the Antarctic Peninsula (Robbins *et al.* 2011). This extreme movement is an example of the complexity of movement in the South Pacific, and the challenges that we face in understanding its status.

Response: We appreciate the updated information on the longest humpback whale migration distance. The updated information on maximum migration distance has been considered but does not cause us to change the determinations in this final rule. Our listing determinations are supported by consideration of the best available scientific and commercial information.

Comments on the Southeastern Pacific DPS

Comment 64: Two commenters noted that NMFS stated that the Southeastern Pacific DPS has no trend information, yet NMFS is not listing it as endangered. One of these commenters noted that the study on which NMFS relies for the population estimate uses data collected from non-systematic sightings by whale watch vessels, data that NMFS virtually never uses for its U.S. stock assessments because of the unreliability of data from non-systematic tracks used by commercial whale watching vessels. Having provided that population estimate, the commenter added, NMFS failed to include in the discussion an important recommendation from this study, which was that there is a pressing need for information on "population parameters such as survival and birth rates, population growth rates and movements, all of which are still poorly known for this population" (Felix *et al.* 2011). This commenter stated that it would seem important to better understand all of this information before proposing to remove all protections.

One commenter expressed concern about the threat of fishing gear entanglement, noting that NMFS indicated that entanglement poses the most serious risk to this DPS. The commenter stated that the problem of entanglement is significant enough for the proposed Southeastern Pacific DPS that researchers have recently warned that the "intensive use of gillnets and the increasing use of longlines in artisanal fisheries represent serious threats to the conservation of large cetaceans in Peru and the Southeast Pacific and need to be addressed by national and regional conservation authorities" (García-Godos *et al.* 2013). The commenter quoted from a study during a single year in Ecuador that extrapolated observed bycatch rates, resulting in a total bycatch in Ecuador in 2005 "estimated to be 25 whales (C.I. 95 percent, 20–32). This high bycatch rate is the result of the over-dimensioned artisanal fishing fleet and the lack of fishing management" (Felix *et al.* 2005). The commenter stated that Alava *et al.* (2011) confirmed that this bycatch is continuing in Ecuador, estimating that "bycatch mortality is equivalent to 15 or 33 whales a year" depending on assumptions of population size interacting with the estimated 15,000 vessels fishing off Ecuador; these authors expressed concern about the Southeastern Pacific DPS' breeding grounds becoming a hot spot for bycatch and cautioned that "mitigation strategies and precautionary management and conservation measures are required to protect this vulnerable stock of whales in the long term." The commenter added that we did not consider this study, which also depicts a declining birth rate off Ecuador—contrasting to higher birth rates in Colombian calving areas. The commenter noted that the authors warn, "[c]onsidering low birth rates [off Ecuador] of less than 8% and 62% survival rates for this stock and possibly ~1% of the total population bycaught per year, the bycatch problem seems to be far more severe and can pose a serious threat for this humpback whale population survival."

This commenter noted that Capella Alzueta *et al.* (2001), cited in the status review report, looked at stranded animals and found the "annual frequency of occurrence over the 15-year period indicates an increasing trend of entanglement and vessel strike since 1996." The commenter asserted that the BRT mislead readers by implying that humpback whales are not struck by ships, even though Capella Alzueta *et al.* (2001) report increasing trends in carcasses evidencing both vessel collisions and entanglement.

With regard to other threats to this stock, the same commenter noted that the status review cited a study from ten years ago that found that oil and gas production is increasing in Ecuador and stipulated energy development is likely to expand if oil and gas reserves are discovered in the area but indicated that "it does not currently pose a threat to this population." Indeed, the commenter asserted, there is increasing onshore production that requires additional shipping and, as the status review report indicates, there is a spill risk from difficult navigation in the area. The commenter stated that NMFS should be evaluating the threat over the foreseeable future, not just at the present time.

This commenter also asserted that the status review report insufficiently addressed krill harvest, and that this harvest may well be increasing with the decline in abundance of other commercial fishery targets and the indication from the Marine Stewardship Council that it is willing to certify Antarctic krill harvests as sustainable. The commenter stated that the likely impact of this increasing harvest is compounded by increasing warming of the Antarctic waters and range contraction of krill.

The commenter concluded that, given the acknowledgement that "population parameters such as survival and birth rates, population growth rates and movements . . . are still poorly known for this population" and, in light of threats to this population from entanglement, future fishery conflicts in a warming ocean, it appears premature to remove this stock from the protections offered by its ESA listing.

Response: Abundance estimates for the Southeastern Pacific DPS suggest that it is increasing. While we still do not have trend information for this DPS, we based our proposal on the best available scientific and commercial information. The abundance estimate of 6,504 individuals (95 percent CI: 4,270–9,907) is likely to be an underestimate because, as we stated in the proposed rule, only a portion of the DPS was enumerated for this estimate. This estimate is much higher than 2,000, and the BRT did not consider populations larger than 2,000 to be at risk due to low abundance alone. All threats other than fishing gear entanglement are likely to have no or minor impact on population size and/or the growth rate or are unknown for the Southeastern Pacific DPS. Despite our conclusion that fishing gear entanglements are likely to moderately reduce the population size or the growth rate of this DPS, the large population size makes this threat unlikely to contribute significantly to the extinction risk of the Southeastern Pacific DPS, now or in the foreseeable future. (Also, see our response to Comment 21 for possible explanations for an increase in number of fishing gear entanglements.) Therefore, we conclude that this DPS is not in danger of extinction throughout all or a significant portion of its range or likely to become so within the foreseeable future.

As we have acknowledged, the BRT concluded that fishing gear entanglement is likely to moderately reduce the abundance or population growth rate of the Southeastern Pacific DPS. The commenter cited García-Godos *et al.* (2013) in asserting that this threat needed to be addressed by national and regional conservation authorities. García-Godos *et al.* (2013) expressed concern about the 10 humpback whales entangled off Peru between 1995 and 2012 and suggested that this was likely a small fraction of fishing gear entanglements because the data-collection methodology applied was largely opportunistic. They recommended a nationally and regionally integrated stranding network along the Peruvian coast, capable of monitoring the impacts of fisheries and shipping on populations of large cetaceans off Peru, as well as encouraging reporting of whale entanglements by fishermen and raising awareness among fishermen and coastal communities of the impacts of whale entanglements, potential preventive and mitigation measures, and reporting duties. We agree that all of these recommendations would benefit humpback whales in the Southeastern Pacific DPS, but we do not agree with the commenter's assertion, based on fishing gear entanglements off Peru and Ecuador, that this threat is likely to negatively impact this DPS to such a degree that extinction risk is increased. The abundance of this DPS is high, and we do not consider the threat to be causing the DPS to be threatened or endangered. Most of the threats the BRT evaluated are subject to various national, international, and/or local regulations, and the BRT determined that the adequacy of these regulations is, at least to a large degree, reflected in the overall biological status of the species. The BRT also considered the adequacy of the major regulations governing these threats when making predictions about future status. Please see Comment 65 for a list of ongoing conservation efforts in Colombia, where humpback whales from the Southeastern Pacific DPS are more concentrated.

With regard to the comment about ship strikes, again, we do not consider this to be a significant threat to the Southeastern Pacific DPS. The commenter neglected to provide a more full statement of the conclusion from Capella Alzueta *et al.* (2001), which stated, "[w]hile the current rate of mortality from human related activities (fishing gear or vessel strike) does not appear to seriously threaten this stock of humpback whales, it may slow its population recovery." "Population recovery" as used by the commenter does not have the same meaning as "recovery" under the ESA; instead, it refers to the goal of reaching historical abundance or carrying capacity, which, as we explained in our response to Comment 9, is not the goal of recovery under the ESA. We are required to determine whether a species is actually threatened or endangered because of any of the ESA section 4(a)(1) factors; we consider the information known about threats over the course of the foreseeable future, but we are not permitted to rely on speculation about future impacts. We agree with the BRT that the Southeastern Pacific DPS is not currently threatened by vessel strikes. We disagree that there is a sufficient basis to predict serious impacts in the foreseeable future. We reaffirm our conclusion that ship strikes pose a low risk to this DPS now or within the foreseeable future.

With regard to climate change impacts on the availability of krill to humpback whales, please see our response to Comment 25. With regard to the commenter's concern about certification of krill fisheries, to date, the Marine Stewardship Council has certified two krill fisheries in the Antarctic, Aker Biomarine and Norwegian Olympic Seafood (see *https://www.msc.org/newsroom/news/msc-responds-to-questions-about-antarctic-krill-certification* and *https://www.msc.org/newsroom/news/antarctic-krill-fishery-achieves-msc-certification/?searchterm=krill*). The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) came into being at least in part to address concerns that an increase in krill catches in the Southern Ocean could have a serious effect on populations of krill and other marine life, particularly on birds, seals, whales, and fish, which mainly depend on krill for food. The 25 governments of CCAMLR that regulate the krill fishery have adopted a precautionary approach to minimize risk, and they set the overall quotas to specifically take into account the needs of dependent predators. CCAMLR is widely regarded as the most precautionary of all organizations in terms of setting catch quotas. The total krill catch allowed in the fishery area (CCAMLR Area 48) represents just 1 percent (620,000 tonnes) of the population of krill (estimated at 62 million tonnes). Olympic Seafood currently catches around 3 percent (15,000 tonnes) of the 620,000 tonnes catch limit set by CCAMLR. By contrast it is estimated that predators eat at least 20 million tonnes annually (32 percent total krill biomass). Trigger levels are set so that fishing cannot be too concentrated in one area. At these low rates fishing has a very minimal impact on predators and other species in the food chain.

Given what we know about the Southeastern Pacific DPS of the humpback whale and the threats it faces, we still conclude that the DPS is at low risk of extinction, now and within the foreseeable future. We have based our determination on the best available scientific and commercial information, including an evaluation of ongoing conservation efforts (see our response to Comment 65).

Comment 65: The Directorate for Marine and Coastal Affairs and Aquatic Resources (DAMCRA) of the Colombian Ministry of Environment and Sustainable Development stated that it will maintain the humpback whale as "vulnerable" (IUCN), and it provided references for population size estimates in Malaga Bay (857—Florez-Gonzalez *et al.* 2007) and Gorgona Island (1,366—Escobar 2009; Caballero *et al.* 2000, 2001, 2009). It also provided some biological and conservation effort information (the Plan of Action for the Conservation of the Aquatic Mammals in the Southeast Pacific of the Permanent Commission of the Southeast Pacific; the Strategy for the Conservation of the Humpback Whale of the Southeast Pacific; the recent adhesion of Colombia to the International Whaling Commission for the Regulation of the Hunt of Whales (Law 1348 of 2009); National Action Plan for the Conservation of the Aquatic Mammals of Colombia; the Diagnosis of the State of Knowledge and Conservation of the Aquatic Mammals in Colombia; and the Plan of Migratory Species, Diagnosis and Identification of Actions for the Conservation and the Sustainable Management of Migratory Species of the Biodiversity in Colombia. Finally, Colombia also provided a paper by Carmona *et al.* (2011) entitled "Occurrence and encounter rates of marine mammals in the waters around the Malpelo Island and to the continent."

Response: We acknowledge and appreciate the information Colombia has provided and are encouraged to know about Colombia's humpback whale conservation efforts.

Comments on the Arabian Sea DPS

Comment 66: One commenter asserted that we underestimated the risk of climate change vs. geography-based protections for the Arabian Sea DPS.

Response: The comment is unclear. Our proposal to list the Arabian Sea DPS as endangered was partially based on the potential impact of climate change within the foreseeable future on a species that is so restricted geographically that it cannot adapt to climate change by moving elsewhere. In any case, we are finalizing a listing for this DPS at the highest possible level (endangered).

Comments on "Depleted" Status under the MMPA

Comment 67: Several commenters asserted that removal of any DPSs from the list of endangered or threatened species would result in loss of depleted status under the MMPA. The commenters noted that NMFS could re-designate a species or stock as depleted if warranted.

Response: We agree with the commenters that a species or stock that is considered to be depleted solely on the basis of an ESA listing loses that status if it is removed from the list of threatened or endangered species. Section 3(1) of the MMPA defines "depleted" as "any case in which:" (1) the Secretary "determines that a species or population stock is below its optimum sustainable population;" (2) a state to which authority has been delegated makes the same determination; or (3) a species or stock "is listed as an endangered species or a threatened species under the [ESA]" (16 U.S.C. 1362(1)). In the case of a species or stock that achieved its depleted status solely on the basis of its ESA status, the species or stock would cease to qualify as depleted under the terms of the definition set forth in section 3(1) if the species or stock is no longer listed as threatened or endangered. Humpback whales were considered depleted species-wide under the MMPA solely on the basis of the species' ESA listing. Upon the effective date of this rule, humpback whales that are listed as threatened or endangered will retain depleted status under the MMPA. Humpback whales that are not listed as threatened or endangered will not have depleted status under the MMPA. We note that the DPSs established in this final rule that occur in waters under the jurisdiction of the United States do not equate to the existing MMPA stocks for which Stock Assessment Reports (SARs) have been published in accordance with section 117 of the MMPA (16 U.S.C. 1386). For further information on how this rulemaking affects existing MMPA stocks in U.S. waters, please see "Effects of this Rulemaking," below.

Comment 68: One commenter suggested that NMFS ask the BRT to reconvene as soon as possible to determine if any of the DPSs proposed to be delisted are below their OSP. The commenter also recommended that in the future NMFS consider rulemaking approaches that would avoid any lapse in depleted status for stocks that are below their OSP.

Response: The specific charge to the Humpback Whale BRT was to assess and describe the status of humpback whales pursuant to the ESA, and to identify potential DPSs and evaluate the extinction risk of those potential DPSs. NMFS did not ask the BRT to determine MMPA stock delineations or evaluate any MMPA stocks relative to OSP because NMFS did not want to conflate the two laws and their different standards for evaluating species and populations. As described below in the "Effects of this Rulemaking" section, at the time of a delisting, NMFS may choose to initiate a rulemaking under MMPA section 115(a) if information in its files or information presented by a Scientific Review Group indicates that the species or stock is below its OSP. In such cases, NMFS agrees that it would be beneficial to avoid or minimize any lapse in depleted status and associated MMPA protections for marine mammals that may be below their OSP. NMFS is evaluating different approaches to minimize any such lapse.

Comment 69: One group of commenters asserted that depleted status under the MMPA should be maintained for all humpback whales. The commenters stated that any change in an unlisted DPS' depleted status can occur only through a separate rulemaking.

Response: We disagree with the commenters. Consistent with the D.C. Circuit's opinion in *In re Polar Bear Endangered Species Act Listing and Section 4(d) Rule Litigation,* 720 F.3d 354 (D.C. Cir. 2013), we believe that the process described in MMPA section 115(a) applies only to the first basis for designating a species as depleted (*i.e.,* when the agency determines that the species is below its OSP). Therefore, we are required to issue a rule in accordance with the process described in section 115(a) to determine that a species or stock is no longer depleted in cases where we previously issued a rule pursuant to section 115(a) designating the species or stock as depleted on the basis that it is below its OSP. However, in the case of a species or stock that achieved depleted status solely on the basis of an ESA listing, depleted status automatically terminates if the species or stock is removed from the list of threatened or endangered species. For more information, please see the response to Comment 67 and "Effects of this Rulemaking," below.

Comment 70: One commenter stated that PBR for the MMPA Gulf of Maine stock would increase from 2.6 to between 13.4 and 26 if the West Indies DPS is no longer ESA-listed. The commenter noted that current fishery-related mortality is 7.2 individuals per year, which is above the current PBR but would likely be below the new PBR and thus this stock would no longer be a priority under the MMPA.

Response: The Gulf of Maine stock of humpback whales partially coincides with the West Indies DPS, which is no longer listed under the ESA. Therefore, the Gulf of Maine stock will no longer have depleted status under the MMPA. The stock's PBR is expected to increase following the change in depleted status, because the depleted status affects the selection of the recovery factor used in the PBR calculation. Despite the fact that fishery-related mortality was exceeding the previously-defined PBR for the Gulf of Maine stock (2.6), the abundance of the West Indies DPS is large and increasing. The Gulf of Maine stock is only a small component of the total West Indies DPS of the humpback whale. The best estimate for the total population of humpback whales in the Gulf of Maine stock is 823 animals (Waring *et al.* 2014), while the overall population of the West Indies DPS is estimated to be between 10,400 and 10,752 individuals (Bettridge *et al.* 2015; please see response to Comment 31). We plan to review the MMPA Gulf of Maine stock delineation with respect to the West Indies DPS in the near future. Any resulting change in stock delineation, strategic status, PBR, or other MMPA section 117 elements would be proposed in future stock assessment reports following Scientific Review Group review, with opportunity for public comment.

Comment 71: One commenter stated that the MMPA is adequate in identifying depleted status, and no change is necessary to the MMPA at this time. Under 16 U.S.C. 1362, section 2(1)(A), "the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter III of this chapter, determines that a species or population stock is below its optimum sustainable population." This mechanism authorizing the Secretary to declare any DPS of the humpback whale as "depleted" is an open and transparent process and is adequate use of the best available scientific information.

Response: We did not propose any changes to the MMPA, which is a Federal law that may only be amended by Congress.

Comment 72: One commenter stated that if the West Indies DPS is not listed under the ESA, NMFS should reevaluate the inclusion of humpback whales as a strategic stock in the ALWTRP. For example, how does the MMPA Gulf of Maine stock (800 minimum population size, PBR = 2.7) and its management align with the West Indies DPS? If the Gulf of Maine is one of the primary feeding grounds for the West Indies DPS, how can the population estimate used in the ALWTRP 2014 final rule be so much smaller than that which is described in the proposed rule? There needs to be clear and sensible interplay between the ESA, MMPA, and ALWTRP.

Response: We plan to review the MMPA Gulf of Maine stock delineation with respect to the West Indies DPS in the near future. Any resulting change in stock delineation, strategic status, PBR, or other MMPA section 117 elements would be proposed in future stock assessment reports following Scientific Review Group review, with opportunity for public comment. Once final, any changes would be reflected in other related management programs, as appropriate. Humpback whales will remain within the scope of the ALWTRP regulations unless changed by separate rulemaking, and this is not affected by the action we take today.

Comments on the Need for Approach Regulations

Comment 73: One commenter stated that approach regulations are not necessary in Hawaii because vessels do not pose a threat to the population. The commenter added that the Sanctuary regulations provide enough protection, given the high density of humpback whales there that overlap with whale watching. Further, the commenter suggested, NMFS determined that vessel collisions pose a negligible impact to the Hawaii DPS and, when they do occur, there is little warning, so approach regulations would not be helpful. Instead, the commenter believes we should enhance outreach efforts to educate the public on safe approach distances.

Response: We appreciate the comments received in response to our request on this issue. As a direct consequence of our final listing determination, the current regulations protecting whales from approach in Hawaii, which were promulgated only under authority of the ESA, are no longer supported. Therefore, upon the effective date of this final rule, the existing regulations at 50 CFR 224.103(a) will be deleted and that paragraph of the regulations reserved. However, given the importance of the issue, we have determined that approach regulations in Hawaii should be developed through a separate rulemaking under the MMPA, in the form of an interim final rule published elsewhere in today's issue of the **Federal Register**. As detailed in the separate interim final rule, we have determined that relying solely on protections within the Sanctuary would be inadequate. Comments received in response to the request for information on this topic through our proposed rule were considered in connection with that process. There will also be a further opportunity for comment in response to the interim final approach regulations.

To clarify the issues raised by the commenter, we have not determined that vessel collisions pose a negligible impact to the Hawaii DPS; we did, however, find that the mortality and serious injury incidental to Hawaii deep-set and shallow-set longline fisheries have a negligible impact on this DPS (79 FR 62105; October 16, 2014). While the analysis considered all sources of human-caused mortality and serious injury, including vessel strikes, the determination was specific to these fisheries.

Comment 74: One commenter stated that approach regulations under the MMPA should be issued in Hawaiian waters and that we should work with the Sanctuary on its regulations.

Response: As noted above, we developed a separate interim final rule to promulgate approach regulations for Hawaii under the MMPA, and this has been done in coordination with the Sanctuary managers. We believe the approach regulations that we are issuing, published elsewhere in this issue of the **Federal Register**, are largely consistent with the Sanctuary's regulations.

Comment 75: The State of Hawaii Department of Land and Natural Resources (DLNR) noted that references to Hawaii State law protections were missing from the proposed rule. Under Hawaii Administrative Rules (HAR) section 13–244–40, the Hawaii DLNR prohibits approach within 100 yards of a humpback whale in State waters (0–3 nmi). Under HAR sections 13–256–16 and 19, the Hawaii DLNR prohibits the use of thrill craft and parasail vessels off South and West Maui to avoid possible adverse impacts on humpback whales. The Hawaii DLNR recommends that the final rule include references to the State of Hawaii's relevant rules.

Response: We acknowledge the Hawaii DLNR's comment and appreciate the reference to their regulations.

Comment 76: The Hawaii DLNR also stated that the March 26, 2015, NOAA rule revising regulations within the Sanctuary proposed to strengthen the Sanctuary's humpback whale approach regulation to address "interceptions," otherwise known as leapfrogging (80 FR 16223). It noted that, though the State can regulate vessel approach out to 3 nm, and the Sanctuary can regulate approach in Federal and State waters of the Sanctuary, these efforts alone do not sufficiently protect humpback whales from vessel interactions throughout the Hawaiian Islands and out to the seaward boundary of the U.S. EEZ (200 mi). Therefore, the Hawaii DLNR encourages NOAA to promulgate the 100-yard approach regulations and 1,000-ft overflight regulation under the MMPA, as this would make regulations consistent throughout state and Federal waters off Hawaii, thus improving compliance. NOAA should also consider including those provisions from the Sanctuary proposed rule that address leapfrogging. The Hawaii DLNR intends to adopt these provisions.

Response: We are issuing an interim final rule to implement approach regulations in Hawaii under the MMPA, published elsewhere in this issue of the **Federal Register**. These regulations are similar to the State of Hawaii regulations and the Sanctuary regulations, and they include an additional provision prohibiting interception (or "leapfrogging"). Please see the interim final rule published elsewhere in today's issue of the **Federal Register** for additional details.

Comment 77: The State of Alaska noted that NMFS promulgated the approach regulations in Alaska under both the ESA and the MMPA, so if the ESA status of the Hawaii DPS is revised, the authority under MMPA should remain. For the Western North Pacific DPS, which is proposed to be listed as threatened, authority for this regulation under both the ESA and MMPA should be valid. The State supported retaining the approach regulations in U.S. waters off Alaska because of the conservation benefits that will accrue to both the proposed threatened Western North Pacific DPS and to the increasing number of whales in the Hawaii DPS that frequent Alaska waters in summer. Potential areas of concern at present for this DPS include ship strikes and entanglements, which are currently at low levels, but continued enforcement of approach regulations will assist in keeping those levels low.

Response: We appreciate the State of Alaska's comments, and we concur. In a separate, direct final rule (publishing elsewhere in today's issue of the **Federal Register**), we are publishing a technical correction making minor amendments to the regulations currently set out in the part of the Code of Federal Regulations that applies to endangered marine and anadromous species (at 50 CFR 224.103(b)) and recodifying them so that they also appear in the part that applies to threatened marine and anadromous species (at 50 CFR 223.214) and in the part setting out MMPA regulations (at 50 CFR 216.18). Setting out these approach regulations at 50 CFR 223.214 will ensure that threatened humpback whales in Alaska (which includes the threatened Mexico DPS) will also be protected under the ESA approach regulations. As noted above, we have determined that the Western North Pacific DPS is endangered instead of threatened (see Western North Pacific DPS section for rationale), so the approach regulations will also remain at 50 CFR 224.103 for their continuing protection. Setting the regulations out at 216.18 reflects that the approach regulations in Alaska were also originally promulgated under the authority of the MMPA and that they protect all whales in Alaskan waters whether listed under the ESA or not.

Comments on Critical Habitat

Comment 78: Colombia provided an atlas of distribution, migratory routes, and critical and threatened habitat for large whales in the East Pacific.

Response: We appreciate the information. However, pursuant to the regulations implementing the ESA, we lack authority to designate critical habitat in non-U.S. waters (50 CFR 424.12(g)).

Comment 79: Jamaica stated that the Silver-Navidad-Muchoir bank complex is a major breeding area in the West Indies and could qualify as critical habitat.

Response: We appreciate Jamaica's comment. However, pursuant to the regulations implementing the ESA, we lack authority to designate critical habitat in non-U.S. waters (50 CFR 424.12(g)).

Comment 80: One commenter noted that protecting habitat will be difficult without the additional protections of the ESA, and most of the threats require active management of habitat.

Response: A critical habitat designation has limited regulatory effect and does not mean that NMFS will actively manage habitat. Rather, when an area is designated as critical habitat, Federal agencies must consult with us on any action they authorize, fund, or carry out that may affect the area to ensure that the action is not likely to destroy or adversely modify that habitat (16 U.S.C. 1536(a)(2)).

There are separate tools for protection of habitat that are beyond the scope of this rulemaking. For example, section 112(e) of the MMPA gives us authority to promulgate regulations to protect habitat for strategic stocks. Stocks that maintain depleted status (see Comments on "Depleted" Status under the MMPA) due to endangered/threatened status will remain strategic. Other laws will continue to protect habitat used by humpback whales (*e.g.,* Clean Water Act, National Environmental Policy Act).

Comment 81: One commenter stated that critical habitat is not necessary in Guam and the Commonwealth of the Northern Mariana Islands (CNMI) because it is unlikely to provide a measureable conservation benefit to the DPS and there are no threats there to the Western North Pacific DPS. Another commenter stated that, despite NMFS' clear statutory mandate, NMFS has never designated critical habitat for humpback whales. This commenter noted that amending the listing status for humpback whales would trigger NMFS' duty anew. If NMFS goes forward with its proposal, this commenter asserted, NMFS must designate critical habitat for any and all ESA-listed humpback whale populations in U.S. waters.

Response: The humpback whale was first listed under the precursor to the ESA in 1970, and was transferred to the list of endangered species under the original ESA before the statute was amended to require designation of critical habitat for listed species. Therefore, there was no statutory requirement to designate critical habitat for the endangered humpback whale. We agree with the commenter that, upon revising the listing status of the humpback whale to recognize 14 DPSs and list five of them as threatened or endangered, the obligation arises to designate critical habitat in areas under U.S. jurisdiction for the listed DPSs to the maximum extent prudent and determinable (16 U.S.C. 1533(a)(3)(A)). Our regulations provide that critical habitat is not determinable when data sufficient to perform required analyses are lacking and/or the biological needs of the species are not sufficiently well known (50 CFR 424.12(a)(2)). At this time, we find that critical habitat is not determinable for both of these reasons, as discussed further in the "Effects of this Action" section, below.

We are currently evaluating the habitat needs of humpback whale DPSs that occur in U.S. waters to determine habitat areas that may be essential in supporting the conservation of the species, including areas occupied at the time of listing that contain essential physical and biological features for humpback whales and unoccupied areas that may be essential for their conservation (16 U.S.C. 1532(5)). At this time, we cannot predict whether designating critical habitat in Guam and CNMI or anywhere else will be "prudent," *e.g.*, whether it will provide a conservation benefit to the species (50 CFR 424.12(a)(1)(ii)). If we identify areas that meet the definition of critical habitat, we will publish a proposed rule and solicit public comments on the proposal before finalizing any critical habitat designation.

Comments on Monitoring Humpback Whale DPSs

Comment 82: One commenter provided actions that should be included in the Monitoring Plan: Continuation of SPLASH, at least in part; Entanglement Response Program; abundance estimates by aerial surveys; humpback whale strike/contact database; serious injury determinations; sanctuary research efforts; outreach programs; ocean etiquette; guidelines for boater and ocean users; sanctuary ocean count; sanctuary interagency law enforcement task force; ship strike workshop; humpback whale protections working group. Another commenter (MMC) suggested that we reexamine population structure and DPSs with more genetic sampling and other studies, that we reconvene the BRT after the final determination to seek advice on humpback whale research and monitoring, that we share advice with states and countries, and that we announce the reconvening of a BRT after 5 years.

Response: Today we are issuing a Monitoring Plan for the nine humpback whale DPSs that are not being listed under the ESA. The Monitoring Plan Coordinator will work with collaborators to identify specific surveys and monitoring efforts that we can use to continue monitoring these humpback whales. We believe most, if not all, of the actions identified by the commenter would provide valuable information, and we will pursue them within fiscal and other constraints. As far as the recommendation that we reconvene the BRT to seek advice on research and monitoring, we already consulted with many BRT members as we developed the Monitoring Plan. We plan to collaborate with States and countries in an effort to gather data from all humpback whale DPSs that are not listed under the ESA. With regard to reconvening a BRT after 5 years, the ESA requires us to conduct a 5-year review after a species has been removed from threatened or endangered status. As we get closer to that date, we will know more about our plans for conducting that review.

Comment 83: The State of Massachusetts recommended that NMFS fund population surveys to update abundance and trend information.

Response: Population surveys are important, and we intend to work with collaborators from the States and other Federal agencies to take advantage of ongoing surveys and stranding databases to monitor abundance, trends, and health of humpback whale DPSs that are not being listed under the ESA. However, we cannot predict our budget or competing priorities from year to year. Further, we cannot commit or require any Federal agency to obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. 1341, or any other law or regulation.

Comment 84: The State of Alaska noted that various groups have expressed concerns about the potential for increased ship strikes by cruise ships and whale-watching vessels as the humpback whale population increases in Southeast Alaska, but pointed out that such "takes" for DPSs that are not listed will still be prohibited under the MMPA (but no longer the ESA). The State of Alaska stated that if the proposed rule is finalized, the post-delisting monitoring effort will present opportunities for the State to comment on such concerns and the need to develop feasible mitigation measures, an effort to which the State would like to contribute.

Response: We worked closely with the State of Alaska and other entities to develop a Monitoring Plan, sent it out for public comment and peer review, and are issuing it today with publication of this final rule. We also appreciate the State of Alaska's willingness to contribute to developing feasible mitigation measures.

Comment 85: One commenter noted that funding for population monitoring would be reduced and eventually removed if ESA protections are removed from humpback whales. This commenter asserted that it is unlikely that a reduction in sustainability of any humpback whale DPS will be acknowledged until it is too late. Adding the DPS back to the Endangered and Threatened Species list and developing a recovery plan will take too long.

Response: We disagree. Under the MMPA we are required to assess strategic marine mammal stocks in the United States every year, and non-strategic stocks every 3 years. We do not expect other countries to discontinue their monitoring efforts of humpback whale DPSs that are not listed under the ESA. For example, the IWC will continue to assess the status of humpback whale stocks in order to conserve and manage them. Finally, it is important to note that the Monitoring Plan we are issuing today per section 4(g)(1) of the ESA (16 U.S.C. 1533(g)(1)) establishes a framework for continued monitoring and assessment of threats for the next 10 years (twice the minimum 5-year monitoring window required by the ESA). We do not expect any existing funding to be reduced or removed with removal of ESA protections.

Comment 86: One commenter noted that some of the proposed DPSs are simply too large to effectively or routinely study and manage, including in the event of post-delisting monitoring.

Response: Size of a DPS and ability to manage it did not factor into our identification of DPSs (please see response to Comment 3 for more details on DPS Policy criteria). DPSs must meet the criteria of the DPS Policy, and we do our best to study and manage DPSs once they are identified and listed under the ESA. We will use the best scientific and commercial data available to monitor DPSs that are not listed under the ESA.

Comments on the Draft Monitoring Plan

Comment 87: The Alaska Department of Fish and Game (ADFG) supported our efforts and offered editorial suggestions for clarification and consistency in the Monitoring Plan.

Response: We acknowledge ADFG's support, and we appreciate the editorial suggestions, which we have incorporated into the final Monitoring Plan that we are issuing today.

Comment 88: The Massachusetts Division of Marine Fisheries (DMF) fully supports the development of the Monitoring Plan and is interested in contributing to a successful Monitoring Plan to ensure that NMFS and its collaborators can successfully detect changes in the status of the stock and ensure the non-listed DPSs are appropriately managed.

Response: We acknowledge MA DMF's support and appreciate its willingness to contribute.

Comment 89: The MA DMF strongly urges NMFS and collaborators to coordinate efforts to collect photo ID mark-recapture data during the monitoring period, which requires prioritization of sustained and increased funding of vessel-based surveys. The DMF notes that the Monitoring Plan cannot rely predominately on threat monitoring or serious injuries and mortalities without considering those threats and cases in the context of population monitoring. Another commenter noted that NMFS provides caveats with regard to achieving its aims and the sufficiency of funding, and this is cause for concern regarding the ability of the agency to monitor populations and trends and/or make timely interventions. This commenter adds that lack of guaranteed funding renders almost meaningless the agency's commitment to convene a ''team of experts'' to advise it on whether monitoring should be extended or additional studies initiated. The commenter states that the need to convene this team is predicated on obtaining data indicating that calf production is declining, juvenile and/or adult abundance and growth rates are declining, distributional changes cause concerns or existing or emerging threats ''seem to be negatively affecting production, abundance, population growth rate or distribution,'' and that one cannot find what one is not able to seek.

Response: While we cannot predict future funding levels, to the extent feasible, we intend to budget for post-delisting monitoring efforts through the annual appropriations process. However, we are constrained by the provisions of the Anti-Deficiency Act (*See* 31 U.S.C. 1341 (a)(1)). Further, guaranteeing funding for the measures recommended in a plan is not a precondition to making a listing determination such as we make today. Nevertheless, we understand the high value of vessel-based surveys for obtaining photo ID mark-recapture data, and we will endeavor to fund vessel-based surveys to the extent possible consistent with available budgetary resources.

Comment 90: The MA DMF urges NMFS to work with its international partners to monitor humpback whales in areas where they may redistribute because of ocean warming (*e.g.*, Gulf of Maine).

Response: We will continue our efforts to work with our international partners to monitor humpback whales in all areas where they occur.

Comment 91: One commenter provided a list of monitoring efforts in National Marine Sanctuaries off California. Another commenter noted that while the proposed rule mentions humpback whale protection measures taken by Stellwagen Bank and Greater Farallones National Marine Sanctuaries, it does not mention efforts made by the Cordell Bank and Channel Islands sanctuaries. This commenter provided a list of humpback whale protection, management, and research measures implemented by west coast National Marine Sanctuaries and links to two working group reports: (1) *Reducing the Threat of Ship Strikes on Large Cetaceans in the Santa Barbara Channel Region and Channel Islands National Marine Sanctuary: Recommendations and Case Studies* and (2) *Vessel Strikes and Acoustic Impacts: Report of a Joint Working Group of the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Advisory Councils.*

Response: We appreciate the information and will collaborate with these sanctuaries to access the available data. We reviewed the protective efforts on Cordell Bank and Channel Islands sanctuaries provided by the other commenter, and we intend to continue collaborating with National Marine Sanctuaries to reduce threats to listed and non-listed humpback whale DPSs that breed or feed within or migrate through the boundaries of these sanctuaries. We appreciate the education and outreach efforts made by these sanctuaries.

Comment 92: One commenter recommended that we add to the list of ongoing conservation efforts, under section I.B., of the draft Monitoring Plan the regulations that apply to all U.S. west coast National Marine Sanctuaries. Specifically, under 15 CFR 922, west coast National Marine Sanctuaries prohibit ''Disturbing, taking or possessing any marine mammal, sea turtle or bird within or above the sanctuary; except as permitted by regulations under the Marine Mammal Protection Act, the Endangered Species Act, and the Migratory Bird Act.''

Response: We have moved the list of ongoing conservation efforts from section I.B. to Appendix C of the Monitoring Plan, and we have added these regulations as background to the same list.

Comment 93: The West Coast Region of the National Marine Sanctuary Program noted that many ongoing monitoring programs conducted by sanctuaries are aligned with the prescribed monitoring methods in the draft Monitoring Plan. They strongly support the 10-year monitoring period and will continue to collaborate and enhance communication with the Humpback Whale Monitoring Plan Coordinator and regional staff of NMFS, the research community, and the general public on monitoring and resource protection efforts within U.S. west coast National Marine Sanctuaries.

Response: We acknowledge the West Coast Region of the National Marine Sanctuary Program's comments and appreciate their willingness to continue collaborating with us.

Comment 94: The MMC stated that the objectives and methods identified in our Monitoring Plan for monitoring humpback whale growth rates, distribution, and threats are appropriate.

Response: We acknowledge the MMC's support.

Comment 95: The MMC recommends that the Monitoring Plan be expanded to include (1) an objective to determine whether additional DPSs merit consideration as endangered or threatened under the ESA, and (2) a description of the methods, including further collections of tissue samples and genetic analyses, that will be used to assess population structure further within the ten DPSs.

Response: We received comments on the proposed rule to revise the listing status of the humpback whale from the MMC and others about dividing some of the DPSs we identified into smaller units because they may be genetically distinct. We believe the DPS structure we proposed and are finalizing is based on the best available scientific and commercial information. Please see our responses to Comments 3, 4, and 5 for more details. If reliable data become available that would lead us to identify smaller DPSs within any of the identified DPSs, we will evaluate the data at that time. Note that only nine DPS are included in the Monitoring Plan (rather than the ten DPS that were included in the draft Plan) because of changes to the listing status of some DPSs in this final rule.

Comment 96: One commenter and one peer reviewer noted that existing baseline data for many of the proposed DPSs are outdated, not available, or have significantly wide confidence intervals. They asserted that accomplishing the objectives of the draft Monitoring Plan depends on: (1) Having confidence in the information on current abundance and trends in population and on population dynamics (*e.g.*, growth rates, calf production, age structure); (2) having accurately identified the spatial and temporal distribution of the DPSs, including differential use by various age classes; and (3) proper identification of and ability to accurately monitor trends in threats.

Response: Under the ESA, we are required to base our decisions on the best available scientific and commercial information. Where quantitative data are not available, it is appropriate to use qualitative data. Please see our response to Comment 13 for more discussion of the ESA's requirement to base our decisions on the best available scientific and commercial information.

Comment 97: One commenter stated that it will be difficult to determine whether changes in ocean climate, overharvest of primary prey resources, or other factors are adversely affecting populations until a significant decline has already resulted. As support for this statement, the commenter cited Taylor *et al.* (2007), who estimated that, given the frequency and precision of estimates, a precipitous decline of 50 percent in 15 years would not be detected for over 70 percent of baleen whales, including many humpback populations.

Response: The commenter cited Taylor *et al.* (2007), which discusses the difficulty of monitoring trends in marine mammal stocks when declines are caused by factors that do not involve direct human-caused mortalities. The most common methods to increase our ability to detect precipitous declines are to increase survey frequency and/or change decision criteria (Taylor *et al.* 2007). For example, Taylor *et al.* (2007) suggests that if we wanted to detect a precipitous decline 80 percent of the time for bowhead whales, we could do annual surveys. To save expense, surveys could be less frequent, but the decision criterion for significance would have to be changed to $\alpha = 0.1$ for 4-year intervals or $\alpha = 0.2$ for 6-year intervals. In the latter case, underprotection and overprotection errors are equal at about 20 percent.

As we stated in our responses to Comments 83 and 89, we will endeavor to fund vessel-based surveys to the extent possible consistent with available budgetary resources, and we must rely on the best available information in making decisions under the ESA. However, we are not relying only on abundance information. As we stated in the draft Monitoring Plan, threats monitoring will be important to indicate that a new threat has emerged, the magnitude of an existing threat has increased, and/or that the cumulative impact from threats is likely greater than previously understood.

Comment 98: One commenter wondered how we think we can detect changes in the spatial or temporal distribution of humpback whales in the Southern Hemisphere when the whales' use of specific feeding areas is largely conjectural.

Response: We will need to base our monitoring on the best available scientific and commercial information. We have added a qualifier to the distribution trigger to clarify that a large contraction in range would indicate a potential problem.

Comment 99: One commenter noted that there is a great deal of mixing of breeding stocks in feeding areas that will make threat assessment for individual proposed DPSs difficult if not impossible, adding that a monitoring plan that commits to tracking the impact of threats is of no use if it cannot reliably determine which stock is being adversely affected in an area of mixing.

Response: Again, we must rely on the best available scientific and commercial information. As we noted in our response to Comment 11, where humpback whales from different DPSs mix on feeding grounds, we recognize the need for an approach that will allow us to determine which DPSs have been affected by directed or incidental take or may be affected by Federal actions subject to consultation under section 7. We will likely use a proportional approach to indicate which DPSs are affected by any takes based upon the best available science of what DPSs are present, depending on location and timing where take occurred. We have not finalized this approach, but it will be fluid, based upon the best available science as it changes with increased understanding. Of course, we will continue to work with partners to mitigate threats to all humpback whales, regardless of their ESA listing status, because they remain protected under the MMPA. We will also work with our partners to determine the most effective ways to track the impacts of these threats to humpback whales.

Comment 100: One commenter noted that we stated that we will monitor abundance, distribution, and protection of key prey species even as we admit that "[d]ata are lacking for most locations for humpback whale prey species that are not commercially harvested."

Response: Again, we acknowledge the comment, and we must rely on the best available scientific and commercial information. We have added a list of funded Federal efforts to the Monitoring Plan, but we cannot do the same for non-federal efforts because there is no guarantee that these will be funded. In a particular year, we may have available annual discretionary funds and some ESA section 6 funds that we hope to be able to use to support some of these efforts.

Comment 101: One commenter stated that we appear to be poised to attribute any health effects or slowed growth to the DPS reaching carrying capacity, saying that as "DPSs continue to increase in abundance, they may reach and/or possibly exceed carrying capacity in certain locations and nutritional stress could affect population dynamics." The commenter asserts that we are apparently excusing ourselves from the need to identify domestic or international management actions that may be taken to allow an improved recovery trajectory if slowed growth is a consequence of habitat degradation rather than a species or DPS attaining full recovery.

Response: We will rely on the best available scientific and commercial information to determine whether DPSs are reaching carrying capacity. For the Southern Hemisphere DPSs, we can rely on IWC assessments (IWC 2015) to determine whether different DPSs are approaching carrying capacity. IWC Breeding Stocks correspond, for the most part, to the DPSs we have identified, with the exception that the boundary between the East Australia DPS and the Oceania DPS differs from the boundary between IWC Breeding Stocks E and F. We expect to be able to review estimates of population sizes relative to carrying capacity for the North Pacific DPSs this year based on modeling work that was submitted to the IWC Scientific Committee in June 2016. More work on population structure in the North Atlantic is needed before we can estimate population size relative to carrying capacity there.

Comment 102: One commenter stated that we incorrectly asserted that the Stellwagen Bank National Marine Sanctuary (SBNMS) has its own approach guidelines "that provide some protection [sic] individuals from the West Indies" DPS. This commenter noted that currently there are no SBNMS-specific approach guidelines beyond those NMFS suggests for vessels operating in the Greater Atlantic Region. Therefore, the commenter states, in these areas where harassment necessitates control of vessel and aircraft approaches to whales based on their listing under the ESA, these protections will be largely lost.

Response: It is true that SBNMS does not have its own approach guidelines. The only species in this area with ESA regulatory restrictions on aircraft, vessel speed, and approach is the North Atlantic right whale. Because the MMPA also offers general harassment prohibitions to all marine mammals, no protections will be lost for humpback whales in this respect. Humpback whales will also continue to receive ancillary benefits from those regulations in place to protect right whales (please see our response to Comment 39). In the Greater Atlantic Region, voluntary guidelines are in place to encourage aircraft and vessel behaviors that will not violate the harassment prohibitions of both the MMPA and ESA. These voluntary guidelines will remain in place for humpback whales under the MMPA, regardless of their status under the ESA.

Comment 103: One commenter stated that because there is an existing TRP that currently applies to humpback whales in the North Atlantic, the TRP should continue to apply to the West Indies DPS and any other humpback whale populations off the U.S. east coast even if ESA protections are removed. The commenter added that, similar to the ALWTRP, NMFS should make clear that the provisions of the Pacific Offshore Cetacean Take Reduction Plan (POCTRP) will continue to apply to humpback whales, even if some DPSs are delisted.

Response: Provisions of the ALWTRP and the POCTRP will continue even though some DPSs are no longer listed under the ESA. These take reduction plans are implemented under the authority of the MMPA.

Comment 104: One commenter stated that it is unclear how NMFS considers the IWC's ship strike database, stranding networks, and disentanglement training as sufficient monitoring measures for humpback whales. The commenter added that there are no mandates for any individual or country to report ship strikes to the database, and our own data indicate that ship strikes are underreported. The commenter stated that stranding response varies by region and adequate carcass examinations are rare. This commenter asserted that, while disentanglement training is laudable, it is not legally mandated and only a small percentage of whales benefit from this activity.

Response: Regardless of the ESA status of humpback whales, we have a continuing directive under Title IV of the MMPA to collect health indices for marine mammal populations. The national stranding network will continue to document reports of ship strike and consistently necropsy humpback whale carcasses to determine if ship strike is a cause of death. These results are incorporated into serious injury and mortality estimates in the Stock Assessment Reports and considered in management decisions on behalf of the species. New ship strike avoidance tools are being used in various parts of the United States, such as the reporting application Whale Alert, and we are actively working with the cruise and shipping industries on both the U.S. east and west coasts to both promote prevention and facilitate reporting of incidents. The IWC is currently examining the mechanisms for reporting ship strikes globally and is working with the International Maritime Organization on outreach to industry for areas of overlap of large whales and shipping lanes. In addition, the IWC is beginning the process of tracking and standardizing data on large whale entanglements world-wide and making the data available for prevention and mitigation.

Both NMFS and the IWC have supported the training and equipping of tiered skilled entanglement response teams for large whales in a domestic and international capacity. The IWC is actively training large whale entanglement response personnel around the world in high-risk or high reported entanglement areas. Again, this work to mitigate injury and mortality of whales in distress falls under MMPA Title IV, at the national level. When a whale with an entanglement is reported to NMFS or the network, an assessment of whether the entanglement is life-threatening is undertaken. If it is a life-threatening entanglement, all efforts are made to respond if it is safe and conditions allow. From experience, we know that many whales shed gear on their own in successful self-releases, so not all entanglements require human intervention.

Given the high abundance estimates for those DPSs not being listed under the ESA, we do not believe that ship strikes, entanglements, or other human caused factors are having a negative population level impact on these DPSs at this time or within the foreseeable future.

Comment 105: One commenter and two peer reviewers took issue with the notion of accurately assessing carrying capacity, let alone determining that a species or DPS has reached it. The commenter suggested we should reference the achievement of optimum sustainable populations rather than carrying capacity, which fluctuates with resource availability. One of the peer reviewers noted that carrying capacity for monitoring the DPSs is a useless term because most DPS managers have no realistic idea of the target population abundance. Instead, we should focus on ways to document or monitor status via reproductive rates and environmental threats. The other peer reviewer expressed concern with the emphasis on using carrying capacity to identify response triggers because determining carrying capacity for species like humpback whales with such slow life histories is not easy, straightforward, or static. This peer reviewer added that, even if it is determined for a particular region, carrying capacity can shift along with changing environmental conditions, especially with respect to dynamic ecosystem changes due to climate change.

Response: Please see our response to Comment 101. We must continue to base our decisions on the best available scientific and commercial information. We believe the ongoing assessment work can help us determine when DPSs are approaching carrying capacity.

Comment 106: Two peer reviewers stated that a 10-year monitoring period was too short for detecting changes in population trends, given the slow life history, and they would advise a longer monitoring period if possible. Regardless, they noted, the ability to detect population trends and other triggers will rely on regular, thorough, consistent, and coordinated survey effort throughout the monitoring period.

Response: Section 4(g) of the ESA requires that we monitor species that have recovered under the ESA for a period of at least 5 years. We decided to adopt a period for this rule that is twice the minimum time period. If we determine that we need more than 10 years to detect changes in population trends, we can extend the monitoring period. We agree that the ability to detect population trends and other triggers will rely on regular, thorough, consistent, and coordinated survey effort throughout the monitoring period, and we will do the best we can to achieve a high quality monitoring effort.

Comment 107: One peer reviewer noted that the southern hemisphere DPSs appear to have solid current IWC monitoring but that the Hawaii DPS description of data being gathered for mark-recapture for Southeast Alaska in the draft Monitoring Plan was incorrect. This reviewer stated that the regional Southeast Alaska and Prince William Sound datasets are collaborations with Glacier Bay National Park and the NOAA Fisheries Auke Bay Laboratory, and the North Gulf Oceanic Society and Eye of the Whale datasets will be useful. However, this peer reviewer recommended that a monitoring plan (and agreements) be established to access and maintain the usefulness of these long-term datasets collected since 1979. The peer reviewer believes we are overstating the monitoring efforts. Given the funding situation for humpback whales, this peer reviewer noted that the only guaranteed systematic survey for the Hawaii DPS is the Glacier Bay work.

Response: If the commenter is referring to surveys with guaranteed funding, the commenter is correct. We do not intend to overstate the monitoring efforts. With the exception of Glacier Bay National Park and our work in Prince William Sound (if we receive funding for continued work), there are no systematic surveys in place for the Hawaii DPS. North Gulf Oceanic Society data are incorporated into our Exxon Valdez Oil Spill-Prince William Sound database. The Eye of the Whale, Alaska Whale Foundation, and similar efforts may be useful for identifying some of the triggers but are not suitable for a robust mark-recapture model. We have revised the Monitoring Plan to clarify that we do not expect a full suite of SPLASH-like humpback whale surveys to be funded in the near future. Instead, the Monitoring Plan provides us with guidance to assess the data that exist on a regular basis (and fund additional efforts where possible), and then try to extrapolate from that. We plan to collaborate with other Federal agencies, states, the IWC, and academia to obtain the information we need in order to monitor the status of these humpback whale DPSs.

Comment 108: One commenter noted that the warmer waters throughout the Pacific have been documented to affect marine animals from Alaska to Baja and out to the Pacific Islands, resulting in widespread HABs, some of which have been linked to the die-off of marine mammals, including humpback whales. Because of the ocean warming trend, this commenter cautioned that this trend may potentially have a significant effect on humpback whale populations, as well as other marine mammals. This commenter recommended that the Monitoring Plan add a bullet related to rapid changes in environmental conditions under the "Response triggers." The existing bullets are linked to the condition of the whales (numbers, distribution, calves, and health) but do not take into account changes in the environment. For example, a large HAB detected in southeastern Alaska might trigger NMFS to initiate additional surveys to detect any potentially dead whales. Early detection of dead whales may enable researchers to respond more rapidly to necropsy and thereby diagnose potential causes for mortality. The commenter suggested the following for such an environmental trigger: "Evidence of rapid environmental changes in oceanographic conditions in calving or foraging grounds that potentially could pose an immediate threat to the health of humpback whales or their prey. Examples of rapid changes in environmental condition include, but are not limited to, HABs or die-offs of other marine animals such as pinnipeds or seabirds."

Response: While there is no evidence that climate-change related effects currently contribute, or within the foreseeable future are likely to contribute, significantly to the extinction risk of most DPSs (except the Arabian Sea DPS) (see responses to Comments 24 and 25), we agree that monitoring HABs and unusual mortality events is important. Early detection may provide us with a better opportunity to diagnose potential causes of mortality. However, stranding networks are already in place and, either through these networks or as a result of direct contacts to NMFS via the hotlines and other lines of communication, we are made aware of dead animals, floating animals, and animals in distress. We track these strandings, and the MMPA has provisions for declaring UMEs and assessing the potential causes. Stock assessment reports will capture this information as well. We do not believe this particular trigger is needed. While we will likely indirectly monitor changes in environmental conditions through the stranding networks, it is highly unlikely that we will be launching surveys, as suggested by the commenter. There have been HABs on both U.S. coasts, and they will continue. While individual humpback whales may be affected, it is unlikely that an HAB event would present sufficient cause to reevaluate the population's listing status. An HAB would have to be very large in scale, or repetitive, to have meaningful impact at the population level.

Summary of Changes From the Proposed Rule

- We are relying on the YONAH survey data instead of the MONAH survey data for the abundance estimate for the West Indies DPS.
- We have updated the abundance estimates for the Western North Pacific, Hawaii, Mexico, Central America, and Gabon/Southwest Africa DPSs.
- We are listing the Western North Pacific and Central America DPSs as endangered instead of threatened based on a reconsideration of the information we presented in the proposed rule.
- We are listing the Mexico DPS as threatened instead of not listing it, based on a reconsideration of the information we presented in the proposed rule and the new abundance estimate.
- We have updated the abundance estimate for the Oceania DPS with an estimate that is based on an additional year of data, and we have added a population growth-rate estimate.
- We reviewed, and incorporated as appropriate, scientific data from references that were not included in the status review report and proposed rule. We include the following references, which together with previously cited references, represent the best available scientific and commercial data. Several of these references present new data, but, with the exception of Wade *et al.* (2016), the new data do not result in a change in any of our listing determinations. We are making a change to the Western North Pacific DPS listing determination because we have reconsidered our original determination in light of the fact that the abundance estimate for this DPS is relatively low, numerous threats of at least moderate impact still exist, and the DPS includes a population with unknown breeding grounds and unknown growth rate. We are also making changes to the Mexico and Central America DPS listing determinations. The new, lower abundance estimates (Wade *et al.* 2016) for these DPSs increase our level of concern about their extinction risk. For the Central America DPS we would have listed the DPS as endangered even in the absence of the new abundance estimate, for the reasons we explain further in the Central America DPS section. In all other cases where new information was received (or obtained by us), the information either was not sufficient to convince us to change our determination or provided support for our proposed determinations, and thus we do not rely on the information for our final determinations: Alava *et al.* (2011); Alter *et al.* (2010); Alter *et al.* (2015); Alzueta *et al.* (2001); Anderson *et al.* (2014); Baker *et al.* (2013); Barendse *et al.* (2011); Barnosky *et al.* (2012); Barth *et al.* (2007); Barth *et al.* (2007); Beaugrand (2014); Bowman *et al.* (2013); Bednarsek *et al.* (2014) Boyce *et al.* (2010); Braithwaite *et al.* (2015); Caballero *et al.* (2000, 2001, 2009); Carmona *et al.* (2011); Carstensen *et al.* (2015); Carvalho *et al.* (2014); Chen *et al.* (2011); Coello-Camba *et al.* (2014); Childerhouse and Smith (undated); Collins *et al.* (2010); Comeau *et al.* (2012); Constantine *et al.* (2012); Corrie *et al.* (2015); Dalla Rosa *et al.* (2012); Darling and Mori (1992); Dunlop *et al.* (2010); Elwen *et al.* (2014); Ersts *et al.* (2011); Escobar (2009); Evans *et al.* (2013); Felix *et al.* (2005); Fire *et al.* (2010); Feng *et al.* (2009); Florez-Gonzalez *et al.* (2007); Flynn *et al.* (2015); Fossette *et al.* (2014); Frisch *et al.* (2015); Fu *et al.* (2012); Garcia-Godes *et al.* (2013); Garrigue *et al.* (undated); Garrigue *et al.* (2000); Garrigue *et al.* (2006); Garrigue *et al.* (2010); Garrigue

et al. (2011); Gattuso and Hansson (2011); Gaylor *et al.* (2015); Goldbogen *et al.* (2013); Grebmeier (2012); Hattenrath-Lehmann *et al.* (2015); Haigh *et al.* (2015); Hare *et al.* (2007); Hauser *et al.* (2010); Hedley *et al.* (2011); Hester *et al.* (2008); Hollowed *et al.* (2012); Honisch *et al.* (2012); Ilyina *et al.* (2010); IWC (2015); Ivashchenko *et al.* (2013); IWC (2012); Jensen *et al.* (2015); Kajawara *et al.* (2004); Kato (unpublished abstract); Kawaguchi *et al.* (2013); Kent *et al.* (2012); Kershaw (2015); Kirkley *et al.* (2014); Krieger and Wing (1984, 1986); Kroeker *et al.* (2010); Kroeker *et al.* (2013); Laist *et al.* (2014); Lefebvre *et al.* (2016); Leandro *et al.* (2010); Le Quere *et al.* (2015); Lischka *et al.* (2010); Lewitus *et al.* (2012); Maclean and Wilson (2011); Martinez-Levasseur *et al.* (2011); Martinez-Levasseur *et al.* (2013a); Martinez-Levasseur *et al.* (2013b); McHuron *et al.* (2013); Moore *et al.* (2015); Moura *et al.* (2013); Moy *et al.* (2009); NOAA National Climatic Data Center (2015); NMFS (2015); Nemoto (1957, 1959); Noad *et al.* (2005); Okamoto *et al.* (2013); Olavarria *et al.* (2006); Pace *et al.* (2014); Pachauri *et al.* (2014); Parmesan (2006); Parmesan and Yohe (2003); Paxton *et al.* (2011); Payne *et al.* (1986); Ramp *et al.* (2015); Risch *et al.* (2012); Robbins *et al.* (2011); Rolland *et al.* (2012); Rosenbaum *et al.* (2014); Schonberg *et al.* (2014); Sible *et al.* (2002); Simmonds and Eliott (2009); Simmonds and Isaac (2007); Stevick *et al.* (2015); Stevick *et al.* (2016); Strindberg *et al.* (2011); Tanabe *et al.* (1994); Tatters *et al.* (2012); Thomas *et al.* (2004); Trainer *et al.* (2012); Tyack *et al.* (2011); Van Bressem *et al.* (2009); van derHoop *et al.* (2014); Van Waerebeek *et al.* (2013); Vikingsson *et al.* (2015); Wade *et al.* (2016); Warren *et al.* (2013); Wiley *et al.* (2011); Witteveen *et al.* (2006); Witteveen *et al.* (2008); Wright (2008); Wright *et al.* (2015); Yasunaga and Fujise (2009a); and Yasunaga and Fujise (2009b).

Identification of DPSs

As we discussed earlier in our responses to comments on particular DPSs, the comments that we received on the proposed rule did not change our conclusions regarding the identification of DPSs. We reviewed relevant and recently available scientific data that were not included in the status review report and proposed rule: Barendse *et al.* 2011; Carvalho *et al.* 2014; Elwen *et al.* 2014; Ersts *et al.* 2011; Fossette *et al.* 2014; Kershaw 2015; Rosenbaum *et al.* 2014; Stevick *et al.* 2015; Stevick *et al.* 2016; and Van Waerebeek *et al.* 2013. Based on the best available scientific and commercial data, we reaffirm that the DPSs identified in the proposed rule are discrete and significant. Therefore, we incorporate herein all information on the identification of DPSs provided in the status review report and proposed rule (80 FR 22304; April 21, 2015).

In summary, we apply our joint DPS policy (61 FR 4722; February 7, 1996) to identify 14 discrete and significant DPSs: West Indies, Cape Verde Islands/Northwest Africa, Western North Pacific, Hawaii, Mexico, Central America, Brazil, Gabon/Southwest Africa, Southeast Africa/Madagascar, West Australia, East Australia, Oceania, Southeastern Pacific, and Arabian Sea.

We next present a summary of the extinction risk analysis and our listing determinations for each DPS. Additional detail may be found in the proposed rule.

West Indies DPS

The comments that we received on the West Indies DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing. However, as previously explained in a response to Comment 31, we determined that we should not rely on the MONAH abundance estimate (12,312 individuals) because the underlying data are not final, and they are not verifiable. We incorporate herein all other information on the West Indies DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

The West Indies DPS consists of the humpback whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland. While many West Indies whales also use feeding grounds in the central (Iceland) and eastern (Norway) North Atlantic, many whales from these feeding areas appear to winter in another unknown location.

Abundance and Trends for the West Indies DPS

The most reliable abundance estimates for this DPS are from the 1992–1993 YONAH survey on the breeding grounds in the Caribbean: 10,400 (95 percent CI, 8,000–13,600) individuals according to genetic ID data; and 10,752 (CV = 6.8 percent) individuals according to photo ID data (Stevick *et al.* 2003). Stevick *et al.* (2003) estimated the average annual growth rate at 3.1 percent (SE = 1.2 percent) for the period 1979–1993, but because of concerns that the same data may have been used twice and potentially lead to an over-estimate of the precision of the trend estimate, they re-calculated the trend analysis using only one set of abundance estimates for each time period. The revised trend for this time period was still 3.1 percent (SE = 1.2 percent).

In contrast, estimates from feeding areas in the North Atlantic indicate strongly increasing trends in Iceland (1979–1988 and 1987–2007), Greenland (1984–2007), and the Gulf of Maine (1979–1991) (Bettridge *et al.* 2015). There is some indication that the increase rate in the Gulf of Maine has slowed in more recent years (6.5 percent from 1979 to 1991 (Barlow and Clapham 1997), 0–4 percent from 1992–2000 (Clapham *et al.* 2003a)). It is not clear why the trends appear so different between the feeding and breeding grounds. A possible explanation would be that the Silver Bank breeding ground has reached carrying capacity, and that an increasing number and percentage of whales are using other parts of the West Indies as breeding areas.

Section 4(a)(1) Factors for the West Indies DPS

The best documented unusual mortality event (UME) for humpback whales attributable to disease occurred in 1987–1988 in the North Atlantic, when at least 14 mackerel-feeding humpback whales died of saxitoxin poisoning (a neurotoxin produced by some dinoflagellate and cyanobacteria species) in Cape Cod, Massachusetts (Geraci *et al.* 1989). The whales subsequently stranded or were recovered in the vicinity of Cape Cod Bay and Nantucket Sound, and it is highly likely that other unrecorded mortalities occurred during this event. Such events have been linked to increased coastal runoff. During the first 6 months of 1990, seven dead juvenile (7.6 to 9.1 m long) humpback whales stranded between North Carolina and New Jersey. The significance of these strandings is unknown.

Additional UMEs occurred in the Gulf of Maine in 2003 (12–15 dead humpback whales on Georges Bank), 2005 (7 in New England), and 2006–2007 (minimum of 21 whales), with no cause yet determined but HABs potentially implicated (Gulland 2006; Waring *et al.* 2009). In the Gulf of Maine in 2003, a few sampled individuals among 16 humpback whale carcasses were found with saxitoxin and domoic acid (produced by certain species of diatoms, a different type of algae (Gulland 2006)). The BRT discussed the possible levels of unobserved mortality that may be resulting from HABs and determined that, as the West Indies population had been affected by HABs in the past, it is likely experiencing a higher level of HAB-related mortality than is detected.

The largest potential threats to the West Indies DPS are entanglement in fishing gear and ship strikes (vessel collisions); these occur primarily in the feeding grounds, with some documented in the mid-Atlantic U.S. migratory grounds. There are no reliable estimates of entanglement or ship-strike mortalities for most of the North Atlantic. During the period 2003–2007, the minimum annual rate of human-caused mortality and serious injury (from both entanglements and ship collisions) for the Gulf of Maine feeding population averaged 4.4 animals per year (Waring *et al.* 2009). Off Newfoundland, an average of 50 humpback whale entanglements (range 26–66) was reported annually between 1979 and 1988 (Lien *et al.* 1988); another 84 were reported entangled in either Newfoundland or Labrador from 2000–2006 (Waring *et al.* 2009). Not all entanglements result in mortality (Waring *et al.* 2009). However, all of these figures are likely to be underestimates, as not all entanglements are observed. A study of entanglement-related scarring on the caudal peduncles of 134 individual humpback whales in the Gulf of Maine suggested that between 48 percent and 65 percent had experienced entanglements (Robbins and Mattila 2001).

Ship strike injuries were identified for 8 percent (10 of 123) of dead stranded humpback whales between 1975–1996 along the U.S. East Coast, 25 percent (9 of 36) of which were along mid-Atlantic and southeast states (south of the Gulf of Maine) between Delaware Bay and Okracoke Island North Carolina (Wiley and Asmutis 1995). Ship strikes made up 4 percent of observed humpback whale mortalities between 2001–2005 (Nelson *et al.* 2007) and 7 percent between 2005–2009 (Henry *et al.* 2011) along the U.S. East Coast, and the Canadian Maritimes. Among strandings along the mid- and southeast U.S. coastline during 1975–1996, 80 percent (8 of 10) of struck whales were considered to be less than 3 years old based on their length (Laist *et al.* 2001). This suggests that young whales may be disproportionately affected. However, those waters may be used preferentially by young animals (Swingle *et al.* 1993; Barco *et al.* 2002). It should be noted that ship strikes do not always produce external injuries and may therefore be underestimated among strandings that are not examined for internal injuries.

HABs, vessel collisions, and fishing gear entanglements are likely to moderately reduce the population size and/or the growth rate of the West Indies DPS. All other threats, with the exception of climate change (unknown severity), are considered likely to have no or minor impact on population size or the growth rate of this DPS.

Extinction Risk Analysis for the West Indies DPS

The BRT distributed 82 percent of its likelihood points for the West Indies DPS to the ''not at risk of extinction'' category and 17 percent to the ''moderate risk of extinction'' category. Given the large population size (10,400–10,752, more than five times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone), moderately increasing trend, and the high percentage of likelihood points allocated to the ''not at risk of extinction'' category, we conclude that, despite the moderate threats of HABs, vessel collisions, and fishing gear entanglements and unknown severity of climate change as a threat, the West Indies DPS is not in danger of extinction throughout its range or likely to become so within the foreseeable future throughout its range.

Next, per the Final SPOIR Policy, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation, we need to determine whether the West Indies DPS is in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range. The BRT noted that there are some regional differences in threats for the West Indies DPS, but it was unable to identify any portions of the DPS that both faced particularly high threats and were so significant to the viability of the DPS as a whole that their loss would result in the remainder of the DPS being at high risk of extinction. We agree with the BRT's conclusions and conclude that there are no portions of the DPS that face particularly high threats and are so significant to the viability of the DPS that, if lost, the remainder of the DPS would be in danger of extinction or likely to become so within the foreseeable future. Therefore, we conclude that the DPS is not in danger of extinction in a significant portion of its range and is not likely to become so within the foreseeable future.

Conservation Efforts for the West Indies DPS

While there are many ongoing conservation efforts that apply to the West Indies DPS, we do not need to further evaluate them in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the West Indies DPS

For the above reasons, we finalize our proposed determination that the West Indies DPS of the humpback whale does not warrant listing as threatened or endangered under the ESA.

Cape Verde Islands/Northwest Africa DPS

The comments that we received on the Cape Verde Islands/Northwest Africa DPS and additional information that became available since the publication of the proposed rule did not change our conclusions regarding listing this DPS as endangered. Therefore, we incorporate herein all information on the Cape Verde Islands/Northwest Africa DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

This DPS consists of the humpback whales whose breeding range includes waters surrounding the Cape Verde Islands as well as an undetermined breeding area in the eastern tropical Atlantic which may be more geographically diffuse than the West Indies breeding ground. Its feeding range includes primarily Iceland and Norway. The population of whales breeding in the Cape Verde Islands, plus this unknown area, likely represent the remnants of a historically larger population breeding around the Cape Verde Islands and northwestern Africa (Reeves *et al.* 2002). In our proposed rule, we stated that there is no known overlap in breeding range with North Atlantic humpback whales that breed in the West Indies, although overlap occurs among feeding aggregations in Iceland and Norway from different breeding populations. However, recent information provides some evidence to indicate there may be two different breeding areas in the Caribbean, with different breeding times, and the whales breeding in the southeast Caribbean seem to be more prevalent in the Northeast Atlantic feeding grounds (Stevick *et al.* 2015). Some humpback whales from the Cape Verde Islands breeding grounds have been re-sighted in the southeast Caribbean (Guadeloupe)

(Stevick *et al.* 2016), suggesting the southeast Caribbean may be part of the Cape Verde Islands/Northwest Africa DPS' breeding ground, though this has not been confirmed.

Abundance and Trends for the Cape Verde Islands/Northwest Africa DPS

The population abundance and population trend for the Cape Verde Islands/Northwest Africa DPS are unknown. The Cape Verde Islands photo-identification catalog contains only 88 individuals from a 20-year period (1990–2009) (Wenzel *et al.* 2010). Of those 88 individuals, 20 (22.7 percent) were seen more than once, 15 were seen in 2 years, 4 were seen in 3 years, and 1 was seen in 4 years. The relative high re-sighting rate suggests a small population size with high fidelity to this breeding area, although the DPS may also contain other, as yet unknown, breeding areas (Wenzel *et al.* 2010).

Little is known about the total size of the Cape Verde Islands/Northwest Africa DPS, and its trend is unknown.

Section 4(a)(1) Factors for the Cape Verde Islands/Northwest Africa DPS

For the Cape Verde Islands/Northwest Africa DPS, the threats of HABs, disease, parasites, vessel collisions, fishing gear entanglements and climate change are unknown. All other threats to this DPS are considered likely to have no or minor impact on the population size and/or growth rate.

Extinction Risk Analysis for the Cape Verde Islands/Northwest Africa DPS

The BRT distributed 32 percent of its likelihood points for this DPS to the "high risk of extinction" category, 43 percent to the "moderate risk of extinction" category, and 25 percent to the "not at risk of extinction" category. Unlike for the other DPSs we have identified, we have no reason to believe that this DPS' status has improved since humpback whales within the range of this DPS were listed as endangered. There is a high likelihood that the abundance of this DPS is low (much lower than the BRT's threshold of 500 individuals for a population that would be considered at high risk from low abundance, and potentially below the threshold of 100 individuals for a population that would be considered at extremely high risk). There is also considerable uncertainty regarding the risks of extinction of this DPS due to a general lack of data as reflected in the wide spread of BRT points. Therefore, we conclude that this DPS is in danger of extinction throughout its range.

Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS

Other than protections provided to humpback whales by the IWC and CITES, we are not aware of any ongoing conservation efforts for this DPS. The IWC has programs that provide protection to humpback whales from all DPSs. The IWC's Conservation Committee was established to consider a number of emerging cetacean conservation issues, and its role continues to evolve. The Conservation Committee collaborates closely with the IWC's Scientific Committee to understand and address a range of threats to whales and their habitats including whale watching, ship strikes, and marine debris. In addition, the humpback whale is currently an Appendix I species under CITES, which restricts international trade and provides an additional layer of protection against resumed whaling.

Listing Determination for the Cape Verde Islands/Northwest Africa DPS

While the IWC and CITES conservation efforts are likely to benefit all humpback whales, they are not sufficient to change the extinction risk of this DPS. For the above reasons, we finalize our proposal to list the Cape Verde Islands/Northwest Africa DPS of the humpback whale as an endangered species under the ESA.

Western North Pacific DPS

After reviewing the comments we received on the Western North Pacific DPS and reconsidering the information in the proposed rule, we have reached a different conclusion regarding the appropriate listing status for this DPS. Specifically, though we proposed to list the DPS as a "threatened species," we will finalize the listing as an "endangered species." Additional information became available since the publication of the proposed rule, and some information had not been cited in the status review report (Darling and Mori 1992; Kato unpublished; Okamoto 2013; Wade *et al.* 2016), but this information did not influence our conclusion. We incorporate herein all information on the Western North Pacific DPS provided in the status review report and proposed rule (80 FR 22303; April 21, 2015). The following represents a brief summary of that information.

The Western North Pacific DPS consists of the whales breeding/wintering in the area of Okinawa and the Philippines, another unidentified breeding area (inferred from sightings of whales in the Aleutian Islands area feeding grounds), and those transiting the Ogasawara area. These whales migrate to feeding grounds in the northern Pacific, primarily off the Russian coast.

Abundance and Trends for the Western North Pacific DPS

The abundance of humpback whales in the Western North Pacific was estimated to be around 1,000, based on the photo-identification, capture-recapture analyses from the years 2004–2006 by the SPLASH program (Calambokidis *et al.* 2008) from two primary sampling regions, Okinawa and Ogasawara. The growth rate for humpback whales in the Western North Pacific is estimated to be 6.9 percent (Calambokidis *et al.* 2008) between 1991–93 and 2004–2006, although this could be biased upwards by the comparison of earlier estimates based on photo-identification records from Ogasawara and Okinawa with current estimates based on the more extensive records collected in Ogasawara, Okinawa, and the Philippines during the SPLASH program. However, the overall number of whales identified in the Philippines was small relative to both Okinawa and Ogasawara, so any bias may not be large. Given the possible bias in the rate of increase and the fact that it represents a combination of two populations that the BRT had proposed as separate DPSs (Okinawa/Philippines and Second West Pacific), it is not possible to make a definitive statement about the rate of increase of the Western North Pacific DPS.

More recently, in advance of the June 2016 IWC Scientific Committee meeting in Slovenia, Wade *et al.* (2016) submitted a paper in which they used an integrated spatial multi-strata mark-recapture model to simultaneously estimate abundance for all winter and summer areas sampled during the SPLASH project in the North Pacific. We believe the multi-strata estimates are likely less subject to bias from capture heterogeneity, which has been shown to lead to substantial biases, and they use all the data (from both summer and winter), rather than estimating abundance from just part of the data. Given this, it seems reasonable to conclude that the multi-strata estimates calculated here are more accurate than the within-season Chapman-Peterson estimates. From these analyses, the multi-strata estimate for the Western North Pacific DPS is 1,059 (CV = 0.08). This is not significantly different from the earlier Calambokidis *et al.* (2008) estimate of about 1,000. Overall recovery seems to be slower than in the Central and Eastern North Pacific.

Humpback whales in the Western North Pacific remain rare in some parts of their former range, such as the coastal waters of Korea, and have shown no signs of a recovery in those locations (Gregr 2000; Gregr *et al.* 2000).

The abundance of the Western North Pacific DPS is 1,059 individuals, with unknown trend.

Section 4(a)(1) Factors for the Western North Pacific DPS

The BRT noted that the Sea of Okhotsk currently has a high level of energy exploration and development, and these activities are likely to expand with little regulation or oversight. The BRT determined that the threat posed by energy exploration to the Okinawa/Philippines portion of the Western North Pacific DPS is medium, but noted that there was low certainty regarding this because specifics of feeding location (on or off the shelf) are unavailable. If feeding activity occurs on the shelf in the Sea of Okhotsk, energy exploration in this area could impact what is likely one of the most depleted subunits of humpback whales. The threat posed by energy exploration to the 2nd West Pacific portion of the Western North Pacific DPS was unknown.

The BRT discussed the high level of fishing pressure in the region occupied by the Okinawa/Philippines portion of the Western North Pacific DPS (a small humpback whale population). Although specific information on prey abundance and competition between whales and fisheries is not known in this area, overlap of whales and fisheries has been indicated by the bycatch of humpback whales in set-nets in the area. The BRT determined that competition with fisheries is a medium threat for this DPS (Bettridge *et al.* 2015 at 56), given the high level of fishing and small humpback whale population.

The likely range of the Western North Pacific DPS includes some of the world's largest centers of human activities and shipping. Although reporting of ship strikes is requested in the Annual Progress reports to the IWC, reporting by Japan and Korea is likely to be poor (Bettridge *et al.* 2015 at 94). A reasonable assumption, although not established, is that shipping traffic will increase as global commerce increases; thus, a reasonable assumption is that the level of the threat will increase. The threat of ship strikes was therefore considered to be medium for the Okinawa/Philippines portion of the Western North Pacific DPS and unknown for the 2nd West Pacific DPS portion.

Whales along the coast of Japan and Korea are at risk of entanglement in fisheries gear and related mortality, although overall rates of net and rope scarring are similar to other regions of the North Pacific (Brownell *et al.* 2000). The reported number of humpback whale entanglements/deaths has increased for Japan since 2001 as a result of improved reporting, although the actual number of entanglements may be underrepresented in both Japan and Korea (Baker *et al.* 2006). The BRT concluded that the threat of fishing gear entanglement to this DPS was high for the Okinawa/Philippines portion of this DPS and unknown for the 2nd West Pacific portion of the DPS (Bettridge *et al.* 2015, Table 9). The level of confidence in understanding the minimum magnitude of this threat is medium for the Okinawa/Philippines portion of this DPS and low for the 2nd West Pacific portion of this DPS, given the unknown wintering grounds and primary migratory corridors.

To summarize, all threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown, with the following exceptions: Energy development, competition with fisheries (Bettridge *et al.* 2015 at 56), whaling, and vessel collisions are considered likely to moderately reduce the population size or the growth rate of the Okinawa/Philippines portion of this DPS; and fishing gear entanglement is likely to seriously reduce the population size or the growth rate of the Okinawa/Philippines portion of this DPS (Bettridge *et al.* 2015, Table 9). The levels of these threats are higher than in most other regions of the world and are expected to increase, rather than decline (Bettridge *et al.* 2015 at 94). Also, the threats of underwater noise and ship strikes to this portion of the DPS are expected to increase as shipping traffic increases (Bettridge *et al.* 2015 at 94). In general, there is great uncertainty about the threats facing the 2nd West Pacific portion of this DPS.

Extinction Risk Analysis for the Western North Pacific DPS

The BRT distributed 36 percent of its likelihood points for the Okinawa/Philippines portion of the DPS in the "high risk of extinction" category and 44 percent in the "moderate risk of extinction" category, with only 21 percent of the points in the "not at risk of extinction" category. The distribution of likelihood points among the risk categories indicates uncertainty. There was also considerable uncertainty regarding the risk of extinction of the 2nd West Pacific portion of this DPS, with 14 percent of the points in the "high risk of extinction" category, 47 percent in the "moderate risk of extinction" category, and 39 percent in the "not at risk of extinction" category. The majority of likelihood points were in the "moderate risk of extinction" category for both portions of the Western North Pacific DPS. Given the relatively low population size of the Western North Pacific DPS (1,059, about half the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone), the moderate reduction of its population size or growth rate likely from energy development, competition with fisheries, whaling, and vessel collisions, the serious reduction of its population size or growth rate likely from fishing gear entanglements, the fact that the majority of the BRT's likelihood points were in the "moderate risk of extinction" category for both portions of the DPS, and the considerable uncertainty associated with abundance and trend estimates, we concluded in our proposed rule that the Western North Pacific DPS was likely to become endangered throughout its range within the foreseeable future.

However, the abundance estimate of 1,059 for this DPS is still relatively low and below the level that would signify that the population is not at risk due to low abundance alone. This DPS faces a significant number of moderate threats and one serious threat (fishing gear entanglement) that are expected to increase. The BRT members expressed a considerable degree of uncertainty with regard to both portions of this DPS in their allocation of likelihood points among different extinction risk categories. Further, we note that this DPS includes members of two different populations that the BRT considered to be two different DPSs, one of which has an unknown breeding area; thus, they are likely to have different demographic characteristics. As discussed above under the *Status Review* section, the BRT considered abundance and trend information carefully in evaluating extinction risk, but abundance was not the sole criterion for evaluating extinction risk. The thresholds described by the BRT were only general guidelines, and we must consider them in light of the threats the DPS faces.

We have reconsidered our original listing determination for this DPS in light of the relatively low abundance estimate, the threats that continue to operate on the population, and the considerable uncertainty reflected in the distribution of BRT votes. Under these circumstances, for this particular DPS, the risk to the species is compounded by the lack of information on the population abundance trend. We conclude that the Western North Pacific DPS is in danger of extinction throughout its range.

Conservation Efforts for the Western North Pacific DPS

Currently, NMFS approach regulations exist in Alaska to protect humpback whales from vessels by prohibiting vessels from approaching within 100 yards of a humpback whale (50 CFR 224.103(b)). This regulation also requires vessels to maintain a slow, safe speed near humpback whales, and prohibits vessels from intercepting oncoming whales (a practice also known as "leap-frogging"). In a separate direct final rule published elsewhere in today's issue of the **Federal Register**, this approach regulation is also being set forth in MMPA regulations (50 CFR part 216) because the Alaska regulation was adopted under authority of both the MMPA and the ESA but was inadvertently not codified under the MMPA regulations. It is also being added to 50 CFR 223.214 to extend these ESA protections to threatened humpback whales in Alaskan waters (the Mexico DPS).

In addition, Whale SENSE, a voluntary program promoting responsible viewing to minimize disturbance and protect whales from harassment, currently exists in Alaska.

IWC and CITES conservation efforts apply to this DPS (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*).

Listing Determination for the Western North Pacific DPS

While these conservation efforts are likely to benefit this DPS, they are not sufficient to reduce its extinction risk. For the above reasons, we list the Western North Pacific DPS of the humpback whale as an endangered species under the ESA.

Hawaii DPS

The comments that we received on the Hawaii DPS and additional information that became available since the publication of the proposed rule or that was not cited in the status review report (Darling and Morowitz 1986) did not change our conclusion that this DPS does not warrant listing. Therefore, we incorporate herein all information on the Hawaii DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

The Hawaii DPS consists of humpback whales that breed in Hawaii and feed in the east Bering Sea, Gulf of Alaska, and northern British Columbia.

Abundance and Trends for the Hawaii DPS

Calambokidis *et al.* (2008) estimated the size of the humpback whale populations frequenting the Hawaii breeding area at 10,000 individuals and, assuming that proportions from the Barlow *et al.* (2011) estimate of 21,808 individuals in breeding areas in the North Pacific are likely to be similar to those estimated by Calambokidis *et al.* (2008), the population size frequenting the Hawaii breeding area would have increased to about 12,000 individuals. The most recent growth rate for this DPS was estimated between 5.5 percent and 6.0 percent (Calambokidis *et al.* 2008).

More recently, in advance of the June 2016 IWC Scientific Committee meeting in Slovenia, Wade *et al.* (2016) submitted a paper in which they used an integrated spatial multi-strata mark-recapture model to simultaneously estimate abundance for all winter and summer areas sampled during the SPLASH project in the North Pacific. We believe the multi-strata estimates are likely less subject to bias from capture heterogeneity, which has been shown to lead to substantial biases, and they use all the data (from both summer and winter), rather than estimating abundance from just part of the data. Given this, it seems reasonable to conclude that the multi-strata estimates calculated here are more accurate than the within-season Chapman-Peterson estimates. The multi-strata estimate for the Hawaii DPS is 11,398 (CV = 0.04), which is higher than the Calambokidis *et al.* (2008) estimate of 10,000 and just a little less than the estimate based on Barlow *et al.* (2011).

The abundance estimate for the Hawaii DPS is 11,398 individuals and its population trend estimate is 5.5–6 percent.

Section 4(a)(1) Factors for the Hawaii DPS

Studies of characteristic wounds and scarring indicate that this DPS experiences a high rate of interaction with fishing gear (20–71 percent), with the highest rates recorded in Southeast Alaska and Northern British Columbia (Neilson *et al.* 2009). However, these rates represent only survivors. Fatal entanglements of humpback whales in fishing gear have been reported in all areas, but, given the isolated nature of much of their range, observed fatalities are almost certainly under-reported and should be considered minimum estimates. Studies in another humpback whale feeding ground, which has similar levels of scarring, estimate that the actual annual mortality rate from entanglement may be as high as 3.7 percent (Angliss and Outlaw 2008). There is a high level of certainty with regard to this information. The threat is considered to be medium.

Threats generally are considered likely to have no or minor impact on population size and/or the growth rate of the Hawaii DPS or are unknown, with the following exception: Fishing gear entanglements are considered likely to moderately reduce the population size or the growth rate of the Hawaii DPS.

Extinction Risk Analysis for the Hawaii DPS

The BRT distributed 98 percent of its likelihood points for the Hawaii DPS to the "not at risk of extinction" category. Given the large population size (11,398, more than five times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone), population growth rate of 5.5–6 percent, and high percentage of likelihood points allocated to the "not at risk of extinction" category for the Hawaii DPS, we conclude that, despite the moderate threat of fishing gear entanglements, the Hawaii DPS is not in danger of extinction throughout its range and not likely to become so within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the Hawaii DPS is presently in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT noted that there are some regional differences in threats for the Hawaii DPS, but it was unable to identify any portion of the DPS that both faced particularly high threats and was so significant to the viability of the DPS as a whole that its loss would result in the remainder of the DPS being at high risk of extinction. We agree, and we conclude that no portion of the Hawaii DPS faces particularly high threats and is so significant to the viability of the DPS that, if lost, the remainder of the DPS would be in danger of extinction, or likely to become so within the foreseeable future. Therefore, we conclude that the Hawaii DPS is not in danger of extinction in a significant portion of its range and is not likely to become so within the foreseeable future.

Conservation Efforts for the Hawaii DPS

While there are many ongoing conservation efforts that apply to the Hawaii DPS, including IWC and CITES conservation efforts (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*), we do not need to further evaluate them in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the Hawaii DPS

For the above reasons, we finalize our proposed determination that the Hawaii DPS of the humpback whale does not warrant listing as a threatened or an endangered species under the ESA.

Mexico DPS

After reviewing the comments we received on the Mexico DPS, reconsidering the information in the proposed rule, and reviewing Wade *et al.* (2016), we have reached a different conclusion regarding the appropriate listing status for this DPS. Specifically, though we did not propose to list the DPS as a "threatened species" or an "endangered species," we will finalize the listing status as a "threatened species." We incorporate herein all information on the Mexico DPS provided in the status review report and proposed rule (80 FR 22303; April 21, 2015). The following represents a brief summary of that information.

The Mexico DPS consists of whales that breed along the Pacific coast of mainland Mexico, and the Revillagigedos Islands and transit through the Baja California Peninsula coast. The Mexico DPS feeds across a broad geographic range from California to the Aleutian Islands, with concentrations in California-Oregon, northern Washington-southern British Columbia, northern and western Gulf of Alaska and Bering Sea feeding grounds.

Abundance and Trends for the Mexico DPS

The preliminary estimate of abundance of the Mexico DPS that informed our proposed rule was 6,000–7,000 from the SPLASH project (Calambokidis *et al.* 2008), or higher (Barlow *et al.* 2011). There were no estimates of precision associated with that estimate, so there was considerable uncertainty about the actual population size. However, the BRT was confident that the population was likely to be much greater than 2,000 in total size (above the BRT threshold for a population to be not at risk due to low abundance). Estimates of population growth trends do not exist for the Mexico DPS by itself. Given evidence of population growth throughout most of the primary feeding areas of the Mexico DPS (California/Oregon (Calambokidis *et al.* 2008), Gulf of Alaska from the Shumagins to Kodiak (Zerbini *et al.* 2006a)), it was considered unlikely this DPS was declining, but the BRT noted that a reliable, quantitative estimate of the population growth rate for this DPS was not available.

More recently, in advance of the June 2016 IWC Scientific Committee meeting in Slovenia, Wade *et al.* (2016) submitted a paper in which they used an integrated spatial multi-strata mark-recapture model to simultaneously estimate abundance for all winter and summer areas sampled during the SPLASH project in the North Pacific. We believe the multi-strata estimates are likely less subject to bias from capture heterogeneity, which has been shown to lead to substantial biases, and they use all the data (from both summer and winter), rather than estimating abundance from just part of the data. Given this, it seems reasonable to conclude that the multi-strata estimates calculated here are more accurate than the within-season Chapman-Peterson estimates. The multi-strata estimate for the Mexico DPS is 3,264 (CV = 0.06). This is a significantly lower abundance estimate than the Calambokidis *et al.* (2008) estimate, and with a coefficient of variation of 0.06, it is more reliable.

The abundance estimate for the Mexico DPS is 3,264 individuals, and the population trend is unknown.

Section 4(a)(1) Factors for the Mexico DPS

Of the 17 records of stranded whales in Washington, Oregon, and California in the NMFS stranding database, three involved fishery interactions, two were attributed to vessel strikes, and in five cases the cause of death could not be determined (Carretta *et al.* 2010). Specifically, between 2004 and 2008, 14 humpback whales were reported seriously injured in commercial fisheries offshore of California and two were reported dead. The proportion of these that represent the Mexican breeding population is unknown. Fishing gear involved included gillnet, pot, and trap gear (Carretta *et al.* 2010). Between 2004 and 2008, there were two humpback whale mortalities resulting from ship strikes reported and eight ship strike attributed injuries for unidentified whales in the California-Oregon-Washington stock as defined by NMFS, and some of these may have been humpback whales (Carretta *et al.* 2010). The Mexico DPS is known to also use Alaska and British Columbia waters for feeding (Calambokidis *et al.* 2008). Numerous collisions have been reported from Alaska and British Columbia (where shipping traffic has increased 200 percent in 20 years) (Neilson *et al.* 2012). According to a summary of Alaska ship strike records, an average of 5 strikes a year was reported from 1978–2011 (Neilson *et al.* 2012). However, effects in Alaska will likely be mitigated by the vessel approach regulations discussed above (66 FR 29502; May 31, 2001) and by NMFS outreach to the cruise ship industry to share information about whale siting locations.

Since the publication of the proposed rule, we have updated information on the number of entanglements off the coasts of California, Oregon, and Washington in 2015: 31 confirmed humpback whales of 48 confirmed whale entanglements (NMFS 2015). This represents a higher rate of fishing gear entanglements than was considered by the BRT and presented in the proposed rule, but the reasons for the observed increase is not clear. These new reports did not influence our conclusions on the status of the Mexico DPS. That is, our final listing determination takes into account that fishing gear entanglement poses at least a moderate risk to this DPS but does not attempt to speculate as to whether or why entanglement may be increasing, as the data are inconclusive (please see our response to Comment 21).

All threats are considered likely to have no or minor impact on population size and/or the growth rate of this DPS or are unknown, with the following exception: Fishing gear entanglements are still considered likely to moderately reduce the population size or the growth rate of the Mexico DPS.

Extinction Risk Analysis for the Mexico DPS

The BRT distributed 92 percent of its likelihood points for the Mexico DPS to the "not at risk of extinction" category. At the time we made our proposed determinations, given the large population size of 6,000–7,000, qualitatively described trend (which, based on data about growth in the feeding areas off the west coast of the United States could be interpreted to be moderately increasing), and high percentage of likelihood points allocated to the "not at risk of extinction" category for the Mexico DPS, we concluded that, despite the moderate threat of fishing gear entanglements, the Mexico DPS was not in danger of extinction throughout its range or likely to become so within the foreseeable future.

The updated abundance estimate of 3,264 (Wade *et al.* 2016), while still higher than 2,000 (the BRT's threshold between "not likely to be at risk of extinction due to low abundance alone" and "increasing risk from factors associated with low abundance"), is significantly lower than the previous estimate of 6,000–7,000, though these estimates were derived from the same data. The BRT considered that this DPS was unlikely to be declining because of the population growth throughout most of its feeding areas, in California/Oregon and the Gulf of Alaska, but we do not have specific evidence that this DPS is actually increasing in overall population size.

We have reconsidered our original listing determination for this DPS in light of the revised abundance estimate that is significantly lower than we previously thought (that is only about 50 percent greater than the size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone) and the presence of a known threat of moderate intensity. In these circumstances, for this particular DPS, the risk to the species is compounded by the absence of firm data to establish the population abundance trend. As discussed above under the *Status Review* section, the BRT considered abundance and trend information carefully in evaluating extinction risk, but abundance was not the sole criterion for evaluating extinction risk. The thresholds described by the BRT were only general guidelines, and we must consider them in light of the considerations we just outlined. Fishing gear entanglement is likely to moderately reduce the population size or growth rate of this DPS. In this case, we do not agree with the BRT's conclusions on the extinction risk for the Mexico DPS. We conclude that the Mexico DPS is likely to become endangered throughout its range within the foreseeable future, *i.e.*, that it is a threatened species.

Conservation Efforts for the Mexico DPS

Mexican Standard 131 establishes guidelines and specifications for whale watching, including avoidance distances and speeds, limits on the number of boats, and protection from noise (echo sounders are prohibited). Mexico has also established protected natural areas that contribute to the conservation and sustainable management of humpback whales. These include Natural Heritage whale sanctuaries (Biosphere Reserve "El Vizcaíno" and National Marine Park "Cabo Pulmo" in Baja California Sur) and other protected areas (National Park "Bahía de Loreto," Archipelago "Islas Marías," National Park "Isla Isabel," and National Park "Islas Marietas" in Nayarit).

The Greater Farallones National Marine Sanctuary has whale approach guidelines that provide some protection to individuals from the Mexico DPS while they are in their feeding areas.

In addition, Whale SENSE, a voluntary program promoting responsible viewing to minimize disturbance and protect whales from harassment is expected to be adopted in California in the near future.

In Canada, the "North Pacific" population of humpback whales (*i.e.*, the whales that feed along the entire length of the west coast of British Columbia from Washington to Alaska, including in inshore coastal inlets and offshore waters) is listed as threatened under the SARA (*http://www.sararegistry.gc.ca/approach/act/default_e.cfm*), so it is illegal to kill, harass, capture or harm members of this population in any way. Because some individuals from the Mexico DPS feed in southern British Columbia, the SARA listing should provide some benefits to individuals while feeding there. Critical habitat has been identified under Canadian law to the extent possible off Langara Island, southeast Moresby Island, Gil Island and southwest Vancouver Island. These areas support feeding and foraging, and resting and socializing, and they are protected from destruction. A recovery strategy under SARA was published in 2013 (Fisheries and Oceans Canada 2013). The two goals of this recovery strategy are: In the short term, to maintain, at a minimum, the current abundance of humpback whales in British Columbia (using best estimate of 2,145 animals (95 percent CI = 1,970–2,331 as presented in Ford *et al.* 2009)); and, in the longer-term, to observe continued growth of the population and expansion into suitable habitats throughout British Columbia. To meet these goals, threat and population monitoring, research, management, protection and enforcement, stewardship, outreach and education activities were recommended. Based on the need to assess population-level effects of threats and develop appropriate mitigation measures, activities to monitor and assess threats were given higher priority. An action plan to implement the Canadian recovery strategy is expected to be completed within five years of final posting of the recovery strategy on the SAR Public Registry.

IWC and CITES conservation efforts apply to this DPS (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*).

Listing Determination for the Mexico DPS

While these conservation efforts are likely to benefit this DPS, they are not sufficient to change its extinction risk. For the above reasons, we list the Mexico DPS of the humpback whale as a threatened species under the ESA.

Central America DPS

After reviewing the comments we received on the Central America DPS and reconsidering the information in the proposed rule, we have reached a different conclusion regarding the appropriate listing status for this DPS. Specifically, though we proposed to list the DPS as a "threatened species," we will finalize the listing as an "endangered species." We incorporate herein all information on the Central America DPS provided in the status review report and proposed rule (80 FR 22303; April 21, 2015). The following represents a brief summary of that information.

The Central America DPS is composed of whales that breed along the Pacific coast of Costa Rica, Panama, Guatemala, El Salvador, Honduras and Nicaragua. Whales from this breeding ground feed almost exclusively offshore of California and Oregon in the eastern Pacific, with only a few individuals identified at the northern Washington-southern British Columbia feeding grounds.

Abundance and Trends for the Central America DPS

A preliminary estimate of abundance of the Central America population was ~500 from the SPLASH project (Calambokidis *et al.* 2008), or ~600 based on the reanalysis by Barlow *et al.* (2011). There were no estimates of precision associated with these estimates, so there was considerable uncertainty about the actual population size. Therefore, the actual population size could have been somewhat larger or smaller than 500–600, but the BRT considered it very unlikely to be as large as 2,000 or more. The size of this DPS was relatively low compared to most other North Pacific breeding populations (Calambokidis *et al.* 2008) and within the range of population sizes considered by the BRT to be at risk based on low abundance. The trend of the Central America DPS was considered unknown.

More recently, in advance of the June 2016 IWC Scientific Committee meeting in Slovenia, Wade *et al.* (2016) submitted a paper in which they used an integrated spatial multi-strata mark-recapture model to simultaneously estimate abundance for all winter and summer areas sampled during the SPLASH project in the North Pacific. We believe the multi-strata estimates are likely less subject to bias from capture heterogeneity, which has been shown to lead to substantial biases, and they use all the data (from both summer and winter), rather than estimating abundance from just part of the data. Given this, it seems reasonable to conclude that the multi-strata estimates calculated here are more accurate than the within-season Chapman-Peterson estimates. The multi-strata estimate for the Central America DPS is 411 (CV = 0.30), which is lower than the Calambokidis *et al.* (2008) preliminary estimate of 500 and the estimate of 600 based on Barlow *et al.* (2011).

The abundance estimate of the Central America DPS is 411 individuals, with unknown population trend.

Section 4(a)(1) Factors for the Central America DPS

Vessel collisions and entanglement in fishing gear pose the greatest threat to this DPS. Especially high levels of large vessel traffic are found in this DPS' range off Panama, southern California, and San Francisco. Several records exist of ships striking humpback whales (Carretta *et al.* 2008; Douglas *et al.* 2008), and it is likely that not all incidents are reported. Two deaths of humpback whales were attributed to ship strikes along the U.S. west coast in 2004–2008 (Carretta *et al.* 2010). Ship strikes are probably underreported (Bettridge *et al.* 2015 at 88), and the level of associated mortality is also likely higher than the observed mortalities. Vessel collisions were determined to pose a medium risk to this DPS, especially given the small population size. Shipping traffic will probably increase as global commerce increases; thus, a reasonable assumption is that the level of ship strikes will also increase.

Between 2004 and 2008, 18 humpback whale entanglements in commercial fishing gear off California, Oregon, and Washington were reported (Carretta *et al.* 2010), although the actual number of entanglements may be underreported. Effective fisheries monitoring and stranding programs exist in California, but are lacking in Central America and much of Mexico. Levels of mortality from entanglement are unknown and do vary by region, but entanglement scarring rates indicate a significant interaction with fishing gear. Since the proposed rule published, we have received updated information on the number of entanglements off California, Oregon, and Washington in 2015: 31 confirmed humpback whales of 48 confirmed whale entanglements (NMFS 2015). This represents a higher rate of fishing gear entanglements than was considered by the BRT and presented in the proposed rule, but the reasons for the observed increase is not clear. These new reports did not influence our conclusions on the status of the Central America DPS. That is, our final listing determination does not rely on entanglements being at a higher rate than previously believed (please see our response to Comment 21).

All threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown, with the following exceptions: Vessel collisions and fishing gear entanglements are considered likely to moderately reduce the population size or the growth rate of the Central America DPS.

Extinction Risk Analysis for the Central America DPS

The BRT distributed 28 percent of its likelihood points for the Central America DPS in the "high risk of extinction" category, 56 percent in the "moderate risk of extinction" category, and 16 percent in the "not at risk of extinction" category, but the distribution of votes among the risk categories indicates uncertainty. Even though the BRT used 500 as a guideline between moderate and high risk of extinction (when considering abundance alone), the abundance estimates include a high level of uncertainty. As noted above, the population trend is unknown.

While some may point out that this population feeds in Southern and central California, and those populations are increasing, Mexico DPS whales also feed in this area, and it is likely that Mexico DPS whales represent a higher proportion of the whales in this feeding area because they are more abundant (3,264 individuals in the Mexico DPS vs. 411 individuals in the Central America DPS). Vessel strikes and fishing gear entanglement are still likely to moderately reduce population size or growth rate.

The BRT concluded that this DPS was between "moderate" and "high risk of extinction," with over a quarter of its likelihood points in the "high risk of extinction" category. Because the Central America DPS shares mtDNA haplotypes with some Southern Hemisphere DPSs, suggesting it may serve as a conduit for gene flow between the North Pacific and Southern Hemisphere, it is unique.

We have reconsidered our original listing determination for this DPS in light of the original low abundance estimate (which was at the dividing line between BRT risk categories), the fact that the moderate threats of vessel collisions and fishing gear entanglement continue to act upon a population that is so small, and the considerable uncertainty reflected in the distribution of BRT votes. Under these circumstances, for this particular DPS, the risk is compounded by the lack of information on the population abundance trend. This conclusion was reached prior to receipt of the updated abundance estimate, but we note that the revised estimate of 411 is below the threshold of 500, under which the BRT considered a DPS to be at high risk of extinction due to abundance alone and thus reinforces our final determination. We conclude that the Central America DPS is in danger of extinction throughout its range.

Conservation Efforts for the Central America DPS

The Greater Farallones National Marine Sanctuary has whale approach guidelines that provide some protection to individuals from the Central America DPS while they are in their feeding areas.

In addition, Whale SENSE, a voluntary program promoting responsible viewing to minimize disturbance and protect whales from harassment is expected to be adopted in California in the near future.

In Canada, the "North Pacific" population of humpback whales (*i.e.,* the whales that feed along the entire length of the west coast of British Columbia from Washington to Alaska, including in inshore coastal inlets and offshore waters) is listed as threatened under the SARA (*http://www.sararegistry.gc.ca/approach/act/default_e.cfm*), so it is illegal to kill, harass, capture or harm members of this population in any way. Since some individuals from the Central America DPS feed in southern British Columbia, the SARA listing should provide some benefits to individuals while feeding there. Critical habitat has been identified under Canadian law to the extent possible off Langara Island, southeast Moresby Island, Gil Island and southwest Vancouver Island. These areas support feeding and foraging, and resting and socializing, and they are protected from destruction. A recovery strategy under SARA was published in 2013 (Fisheries and Oceans Canada 2013). The two goals of this recovery strategy are: In the short term, to maintain at a minimum, the current abundance of humpback whales in British Columbia (using best estimate of 2,145 animals (95 percent CI = 1,970–2,331 as presented in Ford *et al.* 2009)); and in the longer-term, to observe continued growth of the population and expansion into suitable habitats throughout British Columbia. To meet these goals, threat and population monitoring, research, management, protection and enforcement, stewardship, outreach and education activities were recommended. Based on the need to assess population-level effects of threats and develop appropriate mitigation measures, activities to monitor and assess threats were given higher priority. An action plan to implement the Canadian recovery strategy is expected to be completed within five years of final posting of the recovery strategy on the SAR Public Registry.

IWC and CITES conservation efforts apply to this DPS (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*).

Listing Determination for the Central America DPS

While these conservation efforts are likely to benefit this DPS, they are not sufficient to change its extinction risk. For the above reasons, we list the Central America DPS of the humpback whale as an endangered species under the ESA.

Brazil DPS

The comments that we received on the Brazil DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing as a threatened species or an endangered species under the ESA. Therefore, we incorporate herein all information on the Brazil DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

This DPS consists of whales that breed between 3° S. and 23° S. in the southwestern Atlantic along the coast of Brazil, with a prominent concentration around the Abrolhos Bank (15°–18° S.), and feed off South Georgia and the South Sandwich Islands.

Abundance and Trends for the Brazil DPS

The most recent abundance estimate for the Brazil DPS comes from aerial surveys conducted off the coast of Brazil in 2002–2005 (Andriolo *et al.* 2010). These surveys covered the continental shelf between 6° S. and 24°30′ S. and provided a best estimate of 6,400 whales (95 percent CI = 5,000–8,000) in 2005. This estimate corresponds to nearly 24 percent of this DPS' pre-exploitation abundance (Zerbini *et al.* 2006d). Nearly 80 percent of the whales are found in the Abrolhos Bank, the eastern tip of the Brazilian continental shelf located between 16° S. and 18° S. (Andriolo *et al.* 2010). The best estimate of population growth rate is 7.4 percent per year (95 percent CI = 0.5–14.7 percent) for the period 1995–1998 (Ward *et al.* 2011).

The abundance estimate for the Brazil DPS is estimated to be 6,400 individuals, with a 7.4 percent per year population growth rate.

Section 4(a)(1) Factors for the Brazil DPS

All threats are considered likely to have no or minor impact on population size and/or the growth rate of the Brazil DPS or are unknown.

Extinction Risk Analysis for the Brazil DPS

The BRT distributed 96 percent of their likelihood points to the "not at risk of extinction" category for the Brazil DPS, thus indicating a high certainty in its voting. None of the factors that may negatively impact the status of the humpback whale appear to have impeded recovery, either alone or cumulatively, for this DPS. Given the large population size (6,400, more than three times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone) of this DPS, the fact that it is known to be increasing in population size, the high percentage of likelihood points allocated to the "not at risk of extinction" category, and the high certainty associated with these extinction risk estimates, we conclude that the Brazil DPS is not in danger of extinction throughout its range presently and not likely to become so within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the Brazil DPS is in danger of extinction or likely to become so in the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT was unable to identify a portion of the Brazil DPS that both faced particularly high threats and was so significant to the viability of the DPS as a whole that its loss would result in the remainder of the DPS being at high risk of extinction. We agree, and we also conclude that no portion of this DPS faces particularly high threats and is so significant to the viability of the remainder of the DPS that, if lost, it would be in danger of extinction, or likely to become so within the foreseeable future. Therefore, we conclude that the Brazil DPS is not threatened or endangered in a significant portion of its range.

Conservation Efforts for the Brazil DPS

Other than protections provided to humpback whales by the IWC and CITES (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*), we are not aware of any ongoing conservation efforts for this DPS. Regardless, we do not need to further evaluate conservation efforts in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the Brazil DPS

For the above reasons, we finalize our proposed determination that the Brazil DPS of the humpback whale does not warrant listing as a threatened species or an endangered species under the ESA.

Gabon/Southwest Africa DPS

The comments that we received on the Gabon/Southwest Africa DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing as a threatened species or an endangered species. We incorporate herein all information on the Gabon/Southwest Africa DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information and some new information.

The Gabon/Southwest Africa DPS consists of whales that breed and calve off central western Africa between ~6° S. and ~6° N. in the eastern Atlantic, including the coastal regions of northern Angola, Congo, Togo, Gabon, Benin, other coastal countries within the Gulf of Guinea and possibly further north. This DPS is thought to feed offshore of west South Africa and Namibia south of 18° S. and in the Southern Ocean beneath west South Africa (20° W. − 10° E.).

Abundance and Trends for the Gabon/Southwest Africa DPS

We have reviewed two more recent papers that were not included in the status review report or considered in the proposed rule (Collins *et al.* 2010, with abundance estimates of 4,314 (CV = 0.19) for 2001–2004 and 7,134 (CV = 0.23) for 2004–2006) and the IWC 2012 assessment of the Gabon stock for 2005 (9,484 (90 percent PI = 7465,12,221), growth rate = 0.045 (90 percent PI = 0.006, 0.081)). We conclude that it is appropriate to use an abundance estimate of 7,134 (CV = 0.23, 95 percent CI 4,576–11,124) for the Gabon/Northwest Africa DPS, as explained in our response to Comment 58. The trend is still unknown because we have determined that it is not appropriate to rely on the growth rate from the IWC (2012) assessment (see response to Comment 58).

Section 4(a)(1) Factors for the Gabon/Southwest Africa DPS

For humpback whales using the waters of central western Africa, expanding offshore hydrocarbon extraction activity now poses an increasing threat (Findlay *et al.* 2006). The degree to which humpback whales are affected by offshore hydrocarbon extraction activity is not known, but it is believed that long-term exposure to low levels of pollutants and noise, as well as the drastic consequences of potential oil spills, could have conservation implications.

All threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown, with the exception of energy exploration posing a moderate threat to Gabon/Southwest Africa DPS.

Extinction Risk Analysis for the Gabon/Southwest Africa DPS

The BRT distributed 93 percent of their likelihood points to the "not at risk of extinction" category for the Gabon/Southwest Africa DPS, thus indicating a high certainty in its voting. Despite the threat of offshore hydrocarbon activity off west Africa, the BRT distributed 93 percent of its likelihood points in the "not at risk of extinction" category, and we agreed with the BRT's assessment. We are now relying on the more recent Collins *et al.* (2010) abundance estimate of 7,134 for this DPS. This estimate does not differ significantly from the average of the previous estimates of 6,560 (CV = 0.15) for 2001–2004 and 8,064 (CV = 012) for 2001–2005 (Collins *et al.* 2008), which is 7,312. This abundance estimate is more than three times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone), and therefore, we affirm our earlier conclusion that the DPS is not in danger of extinction throughout its range presently and not likely to become so within the foreseeable future.

Therefore, we conclude that the Gabon/Southwest Africa DPS is not in danger of extinction throughout its range presently or within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the Gabon/Southwest Africa DPS is in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT concluded that there was some evidence for population substructure within the Gabon/Southwest Africa DPS, based on an extensive breeding range with some significant genetic differentiation among breeding locations (Rosenbam *et al.* 2009). However, the BRT was unable to identify any portion of the DPS that both faced particularly high threats and was so significant to the viability of the DPS as a whole that its loss would result in the remainder of the DPS being at high risk of extinction. We agree, and we also conclude that no portions of this DPS face particularly high threats and are so significant to the viability of the DPS that, if lost, the DPS would be in danger of extinction, or likely to become so within the foreseeable future. Therefore we conclude that the Gabon/Southwest Africa DPS is not threatened or endangered in a significant portion of its range.

Conservation Efforts for the Gabon/Southwest Africa DPS

Other than whale-watching regulations in South Africa that help protect humpback whales from the Gabon/Southwest Africa DPS and protections provided to humpback whales by the IWC and CITES (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*), we are not aware of any ongoing conservation efforts specific to this DPS. Regardless, we do not need to further evaluate conservation efforts in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the Gabon/Southwest Africa DPS

For the above reasons, we finalize our proposed determination that the Gabon/Southwest Africa DPS of the humpback whale does not warrant listing as a threatened species or an endangered species under the ESA.

Southeast Africa/Madagascar DPS

The comments that we received on the Southeast Africa/Madagascar DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing. Therefore, we incorporate herein all information on the Southeast Africa/Madagascar DPS provided in the status review report and proposed rule (80 FR 22303; April 21, 2015). The following represents a brief summary of that information.

The Southeast Africa/Madagascar DPS includes whales breeding in at least three different areas in the western Indian Ocean: One associated with mainland coastal waters of southeastern Africa, extending from Mozambique to as far north as Tanzania and southern Kenya; a second found in the coastal waters of the northern Mozambique Channel Islands and the southern Seychelles; and the third found in the coastal waters of eastern Madagascar. The feeding grounds of this DPS in the Southern Ocean are not well defined but are believed to include multiple localities to the west and east of the region bounded by 5° W. −60° E.

Abundance and Trends for the Southeast Africa/Madagascar DPS

The most recent abundance estimates for the Madagascar population were from surveys of Antongil Bay, 2000–2006 (Cerchio *et al.* 2009). Estimates using data from 2004–2006 and involving "closed" models of photo-identification of individuals and genotype data were 7,406 (CV = 0.37, CI = 2,106–12,706) and 6,951 (CV = 0.33, CI = 2,509–11,394), respectively. Additional estimates were made using various data sets (*e.g.,* photo-identification and genotype) and models, estimating 4,936 (CV = 0.44, CI = 2,137–11,692) and 8,169 individuals (CV = 0.44, CI = 3,476–19,497, Cerchio *et al.* 2009). The mark-recapture data were derived from surveys over several years and thus may represent the abundance of whales breeding off Madagascar, in addition to possibly whales breeding in Mayotte and the Comoros (Ersts *et al.* 2006), and to a smaller degree from the East African Mainland (Razafindrakoto *et al.* 2008).

Two trends in relative abundance have been calculated from land-based observations of the migratory stream passing Cape Vidal, east South Africa in July 1998–2002, and July 1990–2000. The first was an estimate of 12.3 percent per year (Findlay and Best 2006) (however, this estimate is likely outside biological plausibility for this species (Bannister and Hedley 2001; Noad *et al.* 2008; Zerbini *et al.* 2010)); and the second is 9.0 percent (an estimate that is within the range calculated for other Southern Hemisphere breeding grounds (*e.g.,* Ward *et al.* 2006; Noad *et al.* 2008; Hedley *et al.* 2009)). Both rates are considered with caution because the surveys were short in duration. It is not certain that these estimates represent the growth rate of the entire DPS. Given this uncertainty, and the uncertainty from the short duration of the surveys, we conclude it is likely the DPS is increasing, but it is not possible to provide a quantitative estimate of the rate of increase for the entire DPS.

The Southeast Africa/Madagascar DPS is thought to be between 4,936 and 8,169 individuals in population size, and its trend is thought to either be increasing or stable.

Section 4(a)(1) Factors for the Southeast Africa/Madagascar DPS

Information regarding fisheries and other activities is limited. Kiszka *et al.* (2009) and Razafindrakoto *et al.* (2008) provided summaries of humpback whale entanglement and strandings based on interviews with artisanal fishing communities. Substantial gillnet fisheries have been reported in the near-shore waters off the coasts of mainland Africa and Madagascar, and to a lesser extent in the Comoros Archipelago, Mayotte, and Mascarene Islands, where such practices are hindered by coral reefs and a steep continental slope bathymetry (Kiszka *et al.* 2009). Stranding reports and observations from Tanzania and Mozambique have mostly implicated gillnets, with most Madagascan entanglements associated with long-line shark fishing (Razafindrakoto *et al.* 2008). In Mayotte, humpback whales have been observed with gillnet remains attached to them (Kiszka *et al.* 2009), although no fatalities have yet been documented. Industrial fishing operations, including longlines and drift longlines on fish aggregation devices, purse seine and midwater trawling, occur in waters off Mauritius. The extent of bycatch and entanglement in these waters is unknown (Kiszka *et al.* 2009). Strandings and bycatch data from 2001–2005 from South Africa indicated an estimated 15 humpback whales entangled in shark nets (large-mesh gillnets) in KwaZulu Natal province (only one death), while nine stranded whales were reported from the south and east coasts (IWC 2002b, 2003, 2004b, 2005b, 2006b).

All threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown, with the exception of fishing gear entanglements posing a moderate threat to the Southeast Africa/Madagascar DPS.

Extinction Risk Analysis for the Southeast Africa/Madagascar DPS

The BRT distributed 96 percent of their likelihood points to the "not at risk of extinction" category for the Southeast Africa/Madagascar DPS, thus indicating a high degree of certainty in its voting. None of the factors that may negatively impact the status of the humpback whale appear to have impeded recovery, either alone or cumulatively, for this DPS. The population size (4,936–8,169) for this DPS is estimated to be more than twice and maybe four times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone and its population trend is likely to be stable or increasing. The high percentage of likelihood points allocated to the "not at risk of extinction" category and the high certainty associated with this extinction risk estimate further support a finding that this DPS is healthy and resilient, despite the moderate threat posed to this DPS by fishing gear entanglements. Therefore, we conclude that the Southeast Africa/Madagascar DPS is not in danger of extinction throughout its range presently and not likely to become so within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the Southeast Africa/Madagascar DPS is in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT was unable to identify any portion of the Southeast Africa/Madagascar DPS that both faced particularly high threats and was so significant to the viability of the DPS as a whole that its loss would result in the remainder of the DPS being at high risk of extinction. We agree, and we also conclude that no portion of this DPS faces particularly high threats and is so significant to the viability of the DPS that, if lost, the remainder of the DPS would be in danger of extinction, or likely to become so within the foreseeable future. Therefore, we conclude that the Southeast Africa/Madagascar DPS is not threatened or endangered in a significant portion of its range.

Conservation Efforts for the Southeast Africa/Madagascar DPS

Other than protections provided to humpback whales by the IWC and CITES (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*), we are not aware of any ongoing conservation efforts for this DPS. Regardless, we do not need to further evaluate conservation efforts in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the Southeast Africa/Madagascar DPS

For the above reasons, we finalize our proposed determination that the Southeast Africa/Madagascar DPS of the humpback whale does not warrant listing as a threatened species or an endangered species under the ESA.

West Australia DPS

The comments that we received on the West Australia DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing. Therefore, we incorporate herein all information on the West Australia DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

The West Australia DPS consists of the whales whose breeding/wintering range includes the West Australia coast, primarily in the Kimberly Region. Individuals in this population migrate to feeding areas in the Antarctic, primarily between 80°E and 110°E based on tagging data.

Abundance and Trends for the West Australia DPS

Abundance of northbound humpback whales in the southeastern Indian Ocean in 2008 was estimated at 21,750 (95 percent CI = 17,550–43,000) based upon line transect survey data (Hedley *et al.* 2009). The current abundance appears likely close to the historical abundance for the DPS, although there is some uncertainty of the historical abundance because of difficulties in allocating catch to specific breeding populations (IWC 2007a). The current abundance is large relative to any of the general guidelines for viable abundance levels. The rate of population growth is estimated to be ~10 percent annually since 1982, which is at or near the estimated physiological limit of the species (Bannister 1994; Bannister and Hedley 2001).

The West Australia DPS abundance estimate is 21,750 individuals, with a 10 percent per year population growth rate.

Section 4(a)(1) Factors for the West Australia DPS

The threat posed by energy development to the West Australia DPS was considered medium because of the substantial number of oil rigs and the amount of energy exploration activity in the region inhabited by the whales (indicator CO–26 in (Beeton *et al.* 2006)). Additionally, there are proposals for many more oil platforms to be built in the near future, which are highly likely to be executed (Department of Industry and Resources 2008).

All threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown, with the exception of energy exploration posing a moderate threat to the West Australia DPS.

Extinction Risk Analysis for the West Australia DPS

The BRT distributed 97 percent of their likelihood points to the "not at risk of extinction" category for the West Australia DPS, thus indicating a high degree of certainty in its voting. None of the factors that may negatively impact the status of the humpback whale appear to have impeded recovery, either alone or cumulatively, for this DPS. Given the large population size (21,750) for this DPS (more than ten times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone), the fact that its trend is increasing at a rate of 10 percent per year, the high percentage of likelihood points allocated to the "not at risk of extinction" category, and the high certainty associated with this extinction risk estimate, we conclude that the West Australia DPS is not in danger of extinction throughout its range presently and not likely to become so within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the West Australia DPS is in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT was unable to identify a portion of the West Australia DPS that both faced particularly high threats and was so significant to the viability of the DPS as a whole that its loss would result in the remainder of the DPS being at high risk of extinction. We agree, and we also conclude that no portion of this DPS faces particularly high threats and is so significant to the viability of the DPS that, if lost, the remainder of the DPS would be in danger of extinction, or likely to become so within the foreseeable future. Therefore, we conclude that the West Australia DPS is not threatened or endangered in a significant portion of its range.

Conservation Efforts for the West Australia DPS

While there are many ongoing conservation efforts that apply to the West Australia DPS, we do not need to further evaluate them in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the West Australia DPS

For the above reasons, we finalize our proposed determination that the West Australia DPS of the humpback whale does not warrant listing as a threatened species or an endangered species under the ESA.

East Australia DPS

The comments that we received on the East Australia DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing. Therefore, we incorporate herein all information on the East Australia DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

The East Australia DPS consists of the whales breeding/wintering along the eastern and northeastern Australian coast. Based upon tagging, telemetry, and re-sighting data, individuals in this population migrate to Antarctic feeding areas ranging from 100° E. to 180° E., but are concentrated mostly between 120° E. and 180° E.

Abundance and Trends for the East Australia DPS

Abundance of the East Australia DPS was estimated to be 6,300–7,800 (95 percent CI = 4,040–10,739) in 2005 based on photo-ID data (Paton and Clapham 2006; Paton *et al.* 2008; Paton *et al.* 2009). The current abundance is large relative to any of the general guidelines for viable abundance levels. The annual rate of increase is estimated to be 10.9 percent for humpback whales in the southwestern Pacific Ocean (Noad *et al.* 2008). This estimate of population increase is very close to the biologically plausible upper limit of reproduction for humpbacks (Zerbini *et al.* 2010). The surveys presented by Noad *et al.* (2005, 2008) have remained consistent over time, with a strong correlation ($r > 0.99$) between counts and years.

The East Australia DPS abundance estimate is between 6,300 and 7,800, with a 10.9 percent per year population growth rate.

Section 4(a)(1) Factors for the East Australia DPS

All threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown.

Extinction Risk Analysis for the East Australia DPS

The BRT distributed 96 percent of their likelihood points to the "not at risk of extinction" category for the East Australia DPS, thus indicating a high degree of certainty in its voting. None of the factors that may negatively impact the status of the humpback whale appear to have impeded recovery, either alone or cumulatively, for this DPS. Given the large population size (6,300–7,800, more than three times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone) for this DPS, the fact that its trend is increasing at a rate of 10.9 percent per year, the high percentage of likelihood points allocated to the "not at risk of extinction" category, and the high certainty associated with this extinction risk estimate, we conclude that the East Australia DPS is not in danger of extinction throughout its range presently and not likely to become so within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the East Australia DPS is in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT was unable to identify a portion of the East Australia DPS that both faced particularly high threats and was so significant to the viability of the DPS as a whole that its loss would result in the remainder of the DPS being at high risk of extinction. We agree, and we also conclude that no portion of this DPS faces particularly high threats and is so significant to the viability of the DPS that, if lost, the remainder of the DPS would be in danger of extinction, or likely to become so within the foreseeable future. Therefore, we conclude that the East Australia DPS is not threatened or endangered in a significant portion of its range.

Conservation Efforts for the East Australia DPS

While there are many ongoing conservation efforts that apply to the East Australia DPS, we do not need to further evaluate them in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the East Australia DPS

For the above reasons, we finalize our proposed determination that the East Australia DPS of the humpback whale does not warrant listing as a threatened species or an endangered species under the ESA.

Oceania DPS

The comments that we received on the Oceania DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing. Therefore, we incorporate herein all information on the Oceania DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

The Oceania DPS consists of whales that breed/winter in the South Pacific Islands between ~160° E., (west of New Caledonia) to ~120° W. (east of French Polynesia), including American Samoa, the Cook Islands, Fiji, French Polynesia, Republic of Kiribati, Nauru, New Caledonia, Norfolk Island, New Zealand, Niue, the Independent State of Samoa, Solomon Islands, Tokelau, Kingdom of Tonga, Tuvalu, Vanuatu, and Wallis and Futuna. Individuals in this population are believed to migrate to a largely undescribed Antarctic feeding area.

Abundance and Trends for the Oceania DPS

The Oceania humpback whale DPS is of moderate size (4,329 whales; 95 percent CI = 3,345–5,313) (Constantine *et al.* 2012). The trend of the Oceania DPS was unknown at the time of publication of the proposed rule, though more recent information (Constantine *et al.* 2012) that was not included in the status review report (please see our response to Comment 61) or considered in the proposed rule indicates that the growth rate of this DPS is 3 percent per year or higher. The DPS is quite subdivided, and the population estimate applies to an aggregate (although it is known that sub-populations differ in growth rates and other demographic parameters). There are some areas of historical range extent that have not rebounded and other areas without historical whaling information (Fleming and Jackson 2011). There is uncertainty regarding which geographic portion of the Antarctic this DPS uses for feeding. The complex population structure of humpback whales within the Oceania region creates higher uncertainty regarding demographic parameters and threat levels than for any other DPS.

The abundance estimate for the Oceania DPS is 4,329 individuals, with a population growth rate of 3 percent per year.

Section 4(a)(1) Factors for the Oceania DPS

There is little information available from the South Pacific regarding entanglement with fishing gear; two humpback whales have been observed in Tonga entangled in rope in one instance and fishing net in another (Donoghue, pers. comm.). One humpback mother (and her calf) was reported entangled in a longline in the Cook Islands in 2007 (South Pacific Whale Research Consortium 2008). Entanglement scars have been seen on humpback whales in American Samoa, but there are not enough data to determine an entanglement rate. Available evidence suggests that entanglement is a potential concern in regions where whales and stationary or drifting gear in the water overlap (Mattila *et al.* 2010). The threat of entanglements was ranked low for the Oceania DPS.

All threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown. In the section 4(a)(1) analysis section of the proposed rule (80 FR 22304; April 21, 2015 at 22344), we stated that the BRT ranked the threat of entanglements as low for the Oceania DPS. However, in the Conclusions on the Status of Each DPS Under the ESA section of the proposed rule (80 FR 22304; April 21, 2015 at 22350), we incorrectly stated that fishing gear entanglements posed a moderate threat to the Oceania DPS. This latter apparently contradictory statement was in error and reflected a corresponding error in the Executive Summary of the BRT report.

Extinction Risk Analysis for the Oceania DPS

The BRT distributed 68 percent of their likelihood points to the "not at risk of extinction" category for the Oceania DPS, indicating a moderate degree of certainty, and 29 percent of its points to the "moderate risk of extinction" category, indicating some support for a conclusion that the species is imperiled. None of the factors that may negatively impact the status of the humpback whale appear to have impeded recovery, either alone or cumulatively, for this DPS. Given the moderate population size (4,329) for this DPS (more than twice the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone), the 3 percent annual growth rate, the majority of likelihood points allocated to the "not at risk of extinction" category, and the moderate certainty associated with the extinction risk estimate for the Oceania DPS, we conclude that the Oceania DPS is not in danger of extinction throughout all of its range presently and not likely to become so within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the Oceania DPS is in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT noted that the Oceania DPS has potentially somewhat greater substructure than most other humpback whale DPSs due to its extended breeding range, though a lack of strong genetic structure indicates there are likely to be considerable demographic connections among these areas. Some threats, such as whale watching in the Southern Lagoon of New Caledonia, appear to be localized. Nonetheless, the BRT was unable to identify any specific areas where threats were sufficiently severe to be likely to cause local extirpation. We agree, and we also conclude that no portion of this DPS faces particularly high threats and is so significant to the viability of the DPS that, if lost, the remainder of the DPS would be in danger of extinction, or likely to become so within the foreseeable future. Therefore, we conclude that the Oceania DPS is not threatened or endangered in a significant portion of its range.

Conservation Efforts for the Oceania DPS

Other than protections provided to humpback whales by the IWC and CITES (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*), we are not aware of any ongoing conservation efforts for this DPS. Regardless, we do not need to further evaluate conservation efforts in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the Oceania DPS

For the above reasons, we finalize our proposed determination that the Oceania DPS of the humpback whale does not warrant listing as a threatened species or an endangered species under the ESA.

Southeastern Pacific DPS

The comments that we received on the Southeastern Pacific DPS and additional information that became available since the publication of the proposed rule did not change our conclusion that this DPS does not warrant listing. Therefore, we incorporate herein all information on the Southeastern Pacific DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

The Southeastern Pacific DPS consists of whales that breed/winter along the Pacific coasts of Panama to northern Peru (9° N.–6° S.), with the main wintering areas concentrated in Colombia. Feeding grounds for this DPS are thought to be concentrated in the Chilean Magellan Straits and the western Antarctic Peninsula. These cross-equatorial breeders feed in the Southern Ocean during much of the austral summer.

Abundance and Trends for the Southeastern Pacific DPS

Individuals of the Southeastern Pacific population migrate from breeding grounds between Costa Rica and northern Peru to feeding grounds in the Magellan Straits and along the Western Antarctic Peninsula. Though no quantitative growth rate information is available for this DPS, abundance estimates over a 13-year period suggest that the DPS size is increasing, and abundance was estimated to be 6,504 (95 percent CI = 4,270–9,907) individuals in 2005–2006 (Félix *et al.* 2006a; Félix *et al.* 2011). Total abundance is likely to be larger because only a portion of the DPS was enumerated.

The abundance estimate for the Southeastern Pacific DPS is 6,504 individuals, with a population trend that is likely increasing.

Section 4(a)(1) Factors for the Southeastern Pacific DPS

Aquaculture activities are high in waters of Argentina and Chile, but the impact of these activities on this DPS of humpback whales has not been documented and is likely low if few whales use these inland areas. Entanglement was determined to pose a medium threat to this DPS based on stranding and entanglement observations and spatial and temporal overlap with aquaculture activities.

All threats are considered likely to have no or minor impact on population size and/or the growth rate or are unknown, with the exception of fishing gear entanglements posing a moderate threat to the Southeastern Pacific DPS.

Extinction Risk Analysis for the Southeastern Pacific DPS

The BRT distributed 93 percent of their likelihood points to the "not at risk of extinction" category for the Southeastern Pacific DPS, thus indicating a high certainty in its voting. None of the factors that may negatively impact the status of the humpback whale appear to have impeded recovery, either alone or cumulatively, for this DPS. Given the large population sizes (6,504) for this DPS (more than three times the population size that the BRT considered sufficient to demonstrate that a population was not at risk due to low abundance alone), the fact that it is thought to be increasing, the high percentage of likelihood points allocated to the "not at risk of extinction" category, and the high certainty associated with this extinction risk estimate, we conclude that the Southeastern Pacific DPS is not in danger of extinction throughout all of its range presently and not likely to become so within the foreseeable future.

Next, per the Final SPOIR Policy, we need to determine whether the Southeastern Pacific DPS is in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range, because we have determined that the DPS is neither endangered nor threatened based on a rangewide evaluation. The BRT was unable to identify a portion of the Southeastern Pacific DPS that both faced particularly high threats and was so significant to the viability of the DPS as a whole, that its loss would result in the remainder of the DPS being at high risk of extinction. We agree, and we also conclude that no portion of this DPS faces particularly high threats and is so significant to the viability of the DPS that, if lost, the remainder of the DPS would be in danger of extinction, or likely to become so within the foreseeable future. Therefore, we conclude that the Southeastern Pacific DPS is not threatened or endangered in a significant portion of its range.

Conservation Efforts for the Southeastern Pacific DPS

While there are many ongoing conservation efforts that apply to the Southeastern Pacific DPS, we do not need to further evaluate them in the context of this decision because they would serve only to further reduce the likely impact of threats.

Listing Determination for the Southeastern Pacific DPS

For the above reasons, we finalize our proposed determination that the Southeastern Pacific DPS of the humpback whale does not warrant listing as a threatened species or an endangered species under the ESA.

Arabian Sea DPS

The comments that we received on the Arabian Sea DPS and additional information that became available since the publication of the proposed rule did not change our conclusions that this DPS warrants listing as an endangered species. Therefore, we incorporate herein all information on the Arabian Sea DPS provided in the status review report and proposed rule (80 FR 22304; April 21, 2015). The following represents a brief summary of that information.

The Arabian Sea DPS includes those whales that are currently known to breed and feed along the coast of Oman. However, historical records from the eastern Arabian Sea along the coasts of Pakistan and India indicate its range may also include these areas.

Abundance and Trends for the Arabian Sea DPS

Mark-recapture studies using tail fluke photographs collected in Oman from 2000–2004 yielded a population estimate of only 82 individuals (95 percent CI = 60–111). However, sample sizes were small, and there are various sources of possible negative bias, including insufficient spatial and temporal coverage of the population's suspected range (Minton *et al.* 2010b).

Reproductive rates in this DPS are not well understood. Cow-calf pairs were very rarely observed in surveys off the coast of Oman, composing only 7 percent of encounters in Dhofar, and not encountered at all since 2001. Soviet whaling catches off Oman, Pakistan and northwestern India also included low numbers of lactating females (3.5 percent of mature females) relative to pregnant females (46 percent of mature females) (Mikhalev 1997).

No trend data are available for this DPS. A low proportion of immature whales (12.4 percent of all females) was also found, even though catches were indiscriminate with respect to sex and condition (Mikhalev 1997), suggesting that calf mortality in this DPS is high, immature animals occupy areas that have not been surveyed, or that the whales have reproductive "boom and bust" cycles which respond to high annual variation in productivity. The BRT noted that the entire region has not been surveyed; however, in areas where the whales are likely to be, not many whales have been observed. The BRT noted that this is a very small population by any standard but felt that there was some uncertainty in abundance estimates.

The estimated abundance of the Arabian Sea DPS is 82 individuals, but its entire range was not surveyed, so it could be somewhat larger. Its population trend is unknown.

Section 4(a)(1) Factors for the Arabian Sea DPS

The BRT determined that the threat posed by energy exploration to the Arabian Sea DPS should be classified as high, given the small population size and the present levels of energy activity. A catastrophic event similar to the Deepwater Horizon Oil Spill that occurred in the Gulf of Mexico, the potential for which is reasonably foreseeable in light of the scope of ongoing activity, could be devastating to this DPS, especially in light of the year-round presence of humpback whales in this area.

Liver damage was detected in 68.5 percent of necropsied humpback whales in this area during Soviet whaling in 1966, with degeneration of peripheral liver sections, cone-shaped growths up to 20 cm in diameter and blocked bile ducts (Mikhalev 1997). While this pathology was consistent with infection by trematode parasites, none were identified during necropsy, and the causes of this liver damage remain unknown.

Poisonous algal blooms and biotoxins have been implicated in some mass fish, turtle, and possibly cetacean, mortality events on the Oman coast, although no events have yet been known to include humpback whales. Coastal run-off from industrial activities is likely to be increasing rapidly, while regular oil spills in shipping lanes from tankers also contribute to pollution along the coast (*e.g.,* Shriadah 1999). Tattoo skin lesions were observed in 26 percent of photo-identified whales from Oman (Baldwin *et al.* 2010). While not thought to be a common cause of adult mortality, it has been suggested that tattoo skin disease may differentially kill neonates and calves that have not yet gained immunity (Van Bressem *et al.* 2009). The authors also suggested that this disease may be more prevalent in marine mammal populations that experience chronic stress and/or are exposed to pollutants that suppress the immune system.

Humpback whales in the Arabian Sea are exposed to a high level of vessel traffic (Baldwin 2000; Minton 2004; Kaluza *et al.* 2010), so the threat of ship strikes was considered medium for this small DPS.

There is high fishing pressure in areas off Oman where humpback whales are sighted. Eight live humpback whale entanglement incidents were documented between 1990 and 2000, involving bottom set gillnets often with weights still attached and anchoring the whales to the ocean floor (Minton 2004). Minton *et al.* (2010b) examined peduncle photographs of humpback whales in the Arabian Sea and concluded that at least 33 percent had been entangled in fishing gear at some stage. The threat of fishing gear entanglements in the Arabian Sea is considered high and increasing.

The threat posed by climate change to the Arabian Sea DPS of the humpback whale within the foreseeable future was determined to be slightly higher than to the other DPSs and was assigned a medium threat level. This higher threat level is based on the more limited movement of this DPS that both breeds and feeds in the Arabian Sea. In the foreseeable future, changing climatic conditions may change the monsoon-driven upwelling that creates seasonal productivity in the region. While Northern Hemisphere individuals may be able to adapt to climatic changes by moving farther north, Arabian Sea individuals have less flexibility for expanding their range to cooler regions.

Evidence that this DPS has undergone a recent genetic bottleneck and is currently at low abundance (Minton *et al.* 2010b) suggests that there may be an additional risk of impacts from increased inbreeding (which may reduce genetic fitness and increase susceptibility to disease). At low densities, populations are more likely to suffer from the "Allee" effect, where inbreeding and the heightened difficulty of finding mates reduces the population growth rate in proportion to reducing density.

The Arabian Sea DPS faces unique threats, given that the whales do not migrate, but instead feed and breed in the same, relatively constrained geographic location. Energy exploration and fishing gear entanglements are considered likely to seriously reduce the population's size and/or growth rate, and disease, vessel collisions, and climate change are likely to moderately reduce the population's size or growth rate.

Extinction Risk Analysis for the Arabian Sea DPS

The BRT distributed 87 percent of its likelihood points for the Arabian Sea DPS in the "at high risk of extinction" category. We agree with the BRT and conclude that the Arabian Sea DPS is presently in danger of extinction.

Conservation Efforts for the Arabian Sea DPS

Other than protections provided to humpback whales by the IWC and CITES (please see *Conservation Efforts for the Cape Verde Islands/Northwest Africa DPS*), we are not aware of any ongoing conservation efforts for this DPS.

Listing Determination for the Arabian Sea DPS

While the IWC and CITES conservation efforts are likely to benefit all humpback whales, they are not sufficient to change the extinction risk of this DPS. For the above reasons, we finalize our proposal to list the Arabian Sea DPS of the humpback whale as an endangered species under the ESA.

Final Determinations

We reviewed the best available scientific and commercial information, including the information in the peer reviewed status review report, public comments, and information that has become available since the publication of the proposed rule. We identified 14 humpback whale DPSs: West Indies, Cape Verde Islands/Northwest Africa, Western North Pacific, Hawaii, Mexico, Central America, Brazil, Gabon/Southwest Africa, Southeast Africa/Madagascar, West Australia, East Australia, Oceania, Southeastern Pacific, and Arabian Sea. For each DPS, we reviewed the abundance and trends and section 4(a)(1) factors, performed an extinction risk analysis, and considered conservation efforts. We determined that the Cape Verde Islands/Northwest Africa, Western North Pacific, Central America, and Arabian Sea DPSs are endangered species, and the Mexico DPS is a threatened species. Pursuant to the second sentence of section 4(d) of the ESA, we extend the prohibitions of section 9(a)(1)(A) through 9(a)(1)(G) of the ESA (16 U.S.C. 1538) relating to endangered species to threatened humpback whales (which under this rule consists of the Mexico DPS).

The following nine DPSs do not warrant listing under the ESA: West Indies, Hawaii, Brazil, Gabon/Southwest Africa, Southeast Africa/Madagascar, West Australia, East Australia, Oceania, and Southeastern Pacific. We hereby replace the original endangered listing for the entire species with listings of the four endangered DPSs and one threatened DPS.

Peer Review

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review, establishing minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation. The OMB Bulletin, implemented under the Information Quality Act (Pub. L. 106–554), is intended to enhance the quality and credibility of the Federal government's scientific information and applies to influential or highly influential scientific information disseminated on or after June 16, 2005. To satisfy our requirements under the OMB Bulletin, we obtained independent peer review of the status review report by 5 independent scientists with expertise in humpback whale biology and genetics, and related fields. All peer reviewer comments were addressed prior to the publication of the status review report and proposed rule.

Peer reviewer comments and responses to comments can be reviewed in the appendix of the status review report and also at *http://www.cio.noaa.gov/services_programs/prplans/ID284.html.*

Monitoring Plan

We worked with the States of Alaska, Hawaii, and Massachusetts, NOAA's National Marine Sanctuary Program, and the National Park Service to develop a plan pursuant to section 4(g)(1) of the ESA to continue to monitor the status of the DPSs that we consider to not warrant listing under the ESA. We find that it is appropriate to monitor the status of the populations that will no longer be listed under this final rule; although this action is not technically a delisting, we believe monitoring is consistent with the intent of section 4(g)(1) of the ESA (See 16 U.S.C. 1533(g)(1)). We are finalizing this plan today with publication of this final rule. The objective of the monitoring plan will be to ensure that necessary recovery actions remain in place and to ensure the absence of substantial new threats to the DPSs' continued existence. In part, such monitoring efforts are already an integral component of ongoing research, existing stranding networks, and other management and enforcement programs implemented under the MMPA. These activities are conducted by NMFS in collaboration with other Federal and state agencies, the Western Pacific Fishery Management Council, North Pacific Fishery Management Council, the New England Fishery Management Council, university affiliates, and private research groups. As noted in Bettridge *et al.* (2015), many regulatory avenues already in existence provide for review of proposed projects to reduce or prevent adverse effects to humpback whales and for post-project monitoring to ensure protection to humpback whales, as well as penalties for violation of the prohibition on unauthorized take under the MMPA for all DPSs that occur in U.S. waters or by U.S. persons or vessels on the high seas. However, the addition and implementation of a specific Monitoring Plan will provide an additional degree of attention and an early warning system to ensure that identifying 14 DPSs and concluding that nine of these DPSs do not warrant listing as threatened or endangered will not result in the re-emergence of threats to the DPSs.

We sought peer review and public comment on the draft Monitoring Plan during a 30-day public comment period, and we have addressed these comments in the Comment and Response section above.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations and agencies subject to U.S. jurisdiction. Section 4(d) of the ESA directs the Secretary of Commerce (Secretary) to implement regulations "to provide for the conservation of [threatened] species" that may include extending any or all of the prohibitions of section 9 to threatened species. Section 9(a)(1)(g) also prohibits violations of protective regulations for threatened species implemented under section 4(d). We extend all of the prohibitions of section 9(a)(1) in protective regulations issued under the second sentence of section 4(d) for threatened humpback whales, which under this final rule includes the Mexico DPS. No special findings are required to support extending section 9 prohibitions for the protection of threatened species. See *In re Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 818 F. Supp. 2d 214, 228 (D.D.C. 2011); *Sweet Home Chapter of Cmties. for a Great Oregon* v. *Babbitt,* 1 F.3d 1, 8 (D.C. Cir. 1993), modified on other grounds on reh'g, 17 F.3d 1463 (D.C. Cir. 1994), rev'd on other grounds, 515 U.S. 687 (1995).

Sections 7(a)(2) and (4) of the ESA require Federal agencies to consult or confer with us to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or a species proposed for listing, or to adversely modify critical habitat or proposed critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Examples of Federal actions that may require section 7 consultation because they affect the Cape Verde Islands/Northwest Africa, Western North Pacific, Mexico, Central America, and Arabian Sea DPSs of the humpback whale include permits and authorizations for shipping, fisheries, oil and gas exploration, and toxic waste and other pollutant discharges, if they occur in U.S. waters or on the high seas.

Sections 10(a)(1)(A) and (B) of the ESA provide us with authority to grant exceptions to the ESA's section 9 "take" prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) for scientific purposes or to enhance the propagation or survival of a listed species. The type of activities potentially requiring a section 10(a)(1)(A) research/enhancement permit include scientific research that targets humpback whales, including the importation of non-U.S. samples for research conducted in the United States. Section 10(a)(1)(B) incidental take permits are required for non-Federal activities that may incidentally take a listed species in the course of an otherwise lawful activity.

Identification of Those Activities That Would Constitute a Violation of Section 9 of the ESA

On July 1, 1994, the Services issued an *Interagency Cooperative Policy for Endangered Species Act Section 9 Prohibitions* (59 FR 34272). The intent of this policy is to increase public awareness of the effect of our ESA listing on proposed and ongoing activities within the species' range. We identify, to the extent known, specific activities that will be considered likely to result in violation of section 9 for endangered species (as well as for threatened species where the section 9 prohibitions have been extended), as well as activities that will not be considered likely to result in violation. Although the Cape Verde Islands/Northwest Africa and Arabian Sea DPSs occur outside of the jurisdiction of the United States, the possibility for violations of section 9 of the ESA exists with respect to these DPSs (for example, import into the United States or take by a person subject to the jurisdiction of the United States on the high seas). Activities that we believe could result in violation of section 9 prohibitions against "take" of the members of the

Western North Pacific, Mexico, and Central America DPSs of the humpback whale include: (1) Unauthorized harvest or lethal takes of humpback whales that are members of the Western North Pacific, Mexico, and Central America DPSs by U.S. citizens; (2) unauthorized in-water activities conducted by any person subject to the jurisdiction of the United States that produce high levels of underwater noise, which may harass or injure humpback whales that are members of the Western North Pacific, Mexico, and Central America DPSs; (3) unauthorized U.S. fisheries that may result in entanglement of humpback whales that are members of the Western North Pacific, Mexico, and Central America DPSs; (4) vessel strikes on whales from the Western North Pacific, Mexico, and Central America DPSs by U.S. ships operating in U.S. waters or on the high seas; and (5) discharging or dumping toxic chemicals or other pollutants by U.S. citizens into areas used by humpback whales that are members of the Western North Pacific, Mexico, and Central America DPSs.

We expect, based on the best available information, the following actions will not result in a violation of section 9: (1) Federally funded or approved projects for which ESA section 7 consultation has been completed and necessary mitigation developed, and that are conducted in accordance with any terms and conditions we provide in an incidental take statement accompanying a biological opinion; and (2) takes of humpback whales in the Western North Pacific, Mexico, and Central America DPSs that have been authorized by NMFS pursuant to section 10 of the ESA.

These lists are not exhaustive. They are merely intended to provide some examples of the types of activities that we might or might not consider as constituting a take of humpback whales in the Western North Pacific, Mexico, and Central America DPSs based on the information currently available. Whether a violation results from a particular activity is entirely dependent upon the facts and circumstances of each incident. Further, an activity not listed may in fact constitute or result in a violation.

Effects of This Rulemaking

Conservation measures provided for species listed as endangered or threatened under the ESA include development of recovery plans (16 U.S.C. 1533(f)); concurrent designation of critical habitat, to the maximum extent prudent and determinable (16 U.S.C. 1533(a)(3)(A)); Federal agency requirements to consult with NMFS under section 7 of the ESA to ensure their proposed actions are not likely to jeopardize the continued existence of the species or result in destruction or adverse modification of any designated critical habitat (16 U.S.C. 1536(a)(2)); and prohibitions against "take" (16 U.S.C. 1538(a)(1)). Recognition of the species' plight through listing promotes conservation actions by Federal and state agencies, foreign entities, private groups, and individuals. The main effects of the listings are prohibitions on take, as well as export and import. The provisions discussed above will no longer apply to the nine DPSs that are in effect removed from the endangered species list. For section 7 requirements that will continue to apply to listed DPSs, we recognize the need for an approach that will allow us to determine which DPSs may be affected by Federal actions subject to consultation under section 7 where humpback whales from different DPSs mix. As we have for other species, we will likely use a proportional approach to indicate which DPSs are affected by any takes based upon the best available science indicating which DPSs are present, depending on the location and timing where take occurred.

The MMPA provides substantial protections to all marine mammals, such as humpback whales, whether they are listed under the ESA or not. In addition, the MMPA provides heightened protections to marine mammals designated as "depleted" (*e.g.*, no take waiver, additional restrictions on the issuance of permits for research, importation, and captive maintenance). Section 3(1) of the MMPA defines "depleted" as "any case in which": (1) The Secretary "determines that a species or population stock is below its optimum sustainable population"; (2) a state to which authority has been delegated makes the same determination; or (3) a species or stock "is listed as an endangered species or a threatened species under the [ESA]" (16 U.S.C. 1362(1)). Section 115(a)(1) of the MMPA establishes that "[i]n any action by the Secretary to determine if a species or stock should be designated as depleted, or should no longer be designated as depleted," such determination must be made by rule, after public notice and an opportunity for comment (16 U.S.C. 1383b(a)(1)). It is our position that a marine mammal species or stock automatically gains "depleted" status under the MMPA when it is listed under the ESA. In the absence of an ESA listing, we follow the procedures described in section 115(a)(1) to designate a marine mammal species or stock as depleted when the basis for its depleted status is that it is below its OSP. This interpretation was confirmed by the United States Court of Appeals for the D.C. Circuit. See *In re Polar Bear Endangered Species Act Listing and Section 4(d) Rule Litigation,* 720 F.3d 354 (D.C. Cir. 2013).

The language and structure of the MMPA's definition of depleted lead NMFS to the conclusion that a species or stock that is designated as depleted solely on the basis of its ESA listing status would cease to qualify as depleted under the terms of that definition if it is no longer listed. Therefore, a species or stock that is removed from the list of threatened and endangered species loses its depleted status when removed from the list. Consistent with the D.C. Circuit's opinion in *In re Polar Bear Endangered Species Act Listing and Section 4(d) Rule Litigation,* 720 F.3d 354 (D.C. Cir. 2013), we believe that the process described in section 115(a) applies only to the first basis for designating a species as depleted (*i.e.*, when the agency determines that the species is below its OSP). Therefore, we are required to issue a rule in accordance with the process described in section 115(a) to determine that a species or stock is no longer depleted in cases where the agency previously issued a rule pursuant to section 115(a) designating the species or stock as depleted on the basis that it is below its OSP. However, in the case of a species or stock that achieved depleted status solely on the basis of an ESA listing, depleted status automatically terminates if the species or stock is removed from the list of threatened or endangered species. In such a situation, we may choose to evaluate whether the species or stock is below its OSP and re-designate the species or stock as depleted through an MMPA rulemaking on that basis if warranted.

We have previously delisted two populations of marine mammals, both of which were considered to be depleted solely on the basis of an ESA listing. The first delisting occurred in 1994, when the agency delisted the Eastern North Pacific (ENP) population of gray whales. *See* 59 FR 31094 (June 16, 1994). As indicated by our rejection of a petition to designate the ENP gray whales as depleted under the MMPA in 2010, we considered the population to be no longer depleted following its delisting (*See* 75 FR 81225; December 27, 2010). The second delisting occurred in 2013, when we delisted the Eastern DPS of the Steller sea lion (*See* 78 FR 66139; November 4, 2013). In our final rule to delist the DPS, we notified the public that the delisting "w[ould] likely lead to two modifications to classifications of the eastern DPS of Steller sea lion under the MMPA: from its current classification as a 'strategic stock' and as a 'depleted' species to a new classification as a 'non-strategic stock' and/or as not depleted." *Id.* at 66168. We stated that we "w[ould] consider redesignating the eastern stock of Steller sea lions as non-strategic and not depleted under the MMPA following review by the Alaska Scientific Review Group in 2014." *Id.* We take this opportunity to clarify our interpretation that loss of depleted status is automatic at the time at the time of a delisting if the sole basis for the species or stocks' depleted status was an ESA listing. In the future, we will notify the public in any proposed rule to delist a marine mammal species or stock that a final rule, if promulgated, will have the effect of designating the species or stock as no longer depleted. At the time of a delisting, we may choose to initiate a rulemaking under section 115(a) if information in our files or information presented by a Scientific Review Group indicates that the species or stock is below its OSP. We will also initiate a review of the species or stock pursuant to section 115(a) if we are petitioned to do so. However, loss of depleted status at the time of a delisting is automatic if the sole basis for the population's depleted status was an ESA listing; no further review as to OSP is necessary before loss of depleted status occurs.

Humpback whales were considered to be depleted species-wide under the MMPA solely on the basis of the species' ESA listing. Therefore, upon the effective date of this rule, humpback whales that are listed as threatened or endangered will retain depleted status under the MMPA and humpback whales that are not listed as threatened or endangered will lose depleted status under the MMPA. However, we note that the DPSs established in this final rule that occur in waters under the jurisdiction of the United States do not necessarily equate to the existing MMPA stocks for which Stock Assessment Reports (SARs) have been published in accordance with section 117 of the MMPA (16 U.S.C. 1386). Following publication of this rule, we will conduct a review of humpback whale stock delineations in waters under the jurisdiction of the United States to determine whether any stocks should be realigned in light of the ESA DPSs established herein. Until such time as the MMPA stock delineations are reviewed, because we cannot manage one portion of a stock as depleted and another portion as not depleted under the MMPA, we will treat existing MMPA stocks that fully or partially coincide with a listed DPS as depleted and stocks that do not fully or partially coincide with a listed DPS as not depleted for management purposes. Therefore, in the interim, we will treat the Western North Pacific, Central North Pacific, and California/Oregon/Washington stocks as depleted because they partially or fully coincide with ESA-listed DPSs, and we will treat the Gulf of Maine and American Samoa stocks as no longer depleted because they do not coincide with any ESA-listed DPS. Any changes in stock delineation or MMPA section 117 elements (such as PBR or strategic status) will be reflected in future stock assessment reports, and the Scientific Review Groups and the public will be provided opportunity to review and comment.

This final rule also has implications for the approach regulations currently at 50 CFR 224.103(a) and (b). With regard to the regulations in effect in Hawaii (224.103(a)), the delisting of the Hawaii DPS removes the ESA basis for promulgation of that rule. Therefore, upon the effective date of this final rule, the regulations currently at § 224.103(a) will be deleted and that paragraph reserved. However, elsewhere in today's issue of the **Federal Register**, we are issuing an interim final rule to promulgate approach regulations in Hawaii under the MMPA that are substantially similar to the ESA regulations being removed, but also prohibit interception (*i.e.*, leap-frogging).

With regard to the regulations in effect in Alaska (224.103(b)), the impacts of this final rule are different. When the Alaska provisions were adopted, we cited section 112(a) of the MMPA in addition to section 11(f) of the ESA as authority (16 U.S.C. 1382(a); 16 U.S.C. 1540(f)). However, because the humpback whale was listed throughout its range as endangered, the rule was codified only in Part 224 of the ESA regulations (which applies to "Endangered Marine and Anadromous Species"). At the time of the proposed listing rule, we did not expect that there would be any endangered DPSs present in Alaska and so sought comment as to whether we should relocate the approach regulations from Part 224 to Part 223 (setting out ESA regulations applicable to "Threatened Marine and Anadromous Species") and also as to whether we should set them out in Part 216 as MMPA regulations. Because we are now listing the Western North Pacific DPS as endangered, we will retain the approach regulations under the ESA at 50 CFR 224.103, and because we are listing the Mexico DPS as threatened, we will also add the provisions to Part 223 at 50 CFR 223.214. By separate rulemaking elsewhere in today's issue of the **Federal Register**, we therefore promulgate a final rule effecting a technical correction and recodification that recodifies these provisions so that they appear in both Parts 223 and 224 and also sets the provisions out in Part 216 (MMPA Regulations) at 50 CFR 216.18, to reflect that these provisions were originally adopted under the MMPA as well as the ESA and are an important source of protection for these marine mammals.

Critical Habitat

Section 3 of the ESA (16 U.S.C. 1532(5)(A)) defines critical habitat as "(i) the specific areas within the geographical area occupied by the species, at the time it is listed . . . on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed . . . upon a determination by the Secretary that such areas are essential for the conservation of the species." Section 3 of the ESA also defines the terms "conserve," "conserving," and "conservation" to mean "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary" (16 U.S.C. 1532(3)).

Section 4(a)(3)(A)(i) of the ESA requires that, to the maximum extent practicable and determinable, critical habitat be designated concurrently with the listing of a species. Designation of critical habitat must be based on the best scientific data available, and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat (16 U.S.C. 1533(b)(2)). Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure that they do not fund, authorize, or carry out any actions that are likely to destroy or adversely modify that habitat (16 U.S.C. 1536(a)(2)). This requirement is in addition to the section 7 requirement that Federal agencies ensure their actions do not jeopardize the continued existence of the species.

In determining what areas qualify as critical habitat, 50 CFR 424.12(b) requires that NMFS "Identify physical and biological features essential to the conservation of the species at an appropriate level of specificity using the best available scientific data. This analysis will vary between species and may include consideration of the appropriate quality, quantity, and spatial and temporal arrangements of such features in the context of the life history, status, and conservation needs of the species." "Physical or biological features" are defined as the "features that support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity" (50 CFR 424.02).

The ESA directs the Secretary of Commerce to consider the economic impact, the national security impacts, and any other relevant impacts from designating critical habitat, and under section 4(b)(2), the Secretary may exclude any area from such designation if the benefits of exclusion outweigh those of inclusion, provided that the exclusion will not result in the extinction of the species.

50 CFR 424.12(g) specifies that critical habitat shall not be designated within foreign countries or in other areas outside U.S. jurisdiction. Because the known distributions of the humpback whales in the Cape Verde Islands/Northwest Africa and Arabian Sea DPSs occur in areas outside the jurisdiction of the United States, no critical habitat will be designated for these DPSs.

In our proposed rule (80 FR 22304; April 21, 2015), we requested information on the identification of specific areas that meet the definition of critical habitat defined above for the Western North Pacific and Central America DPSs of the humpback whale. These DPSs, together with the Mexico DPS that we are now listing as threatened, are the only listed DPSs that occur in U.S. waters or its territories. We also solicited biological and economic information relevant to making a critical habitat designation for each DPS. We have reviewed the comments provided and the best available scientific information. We conclude that critical habitat is not determinable at this time for the following reasons: (i) Data sufficient to perform required analyses are lacking; and (ii) the biological needs of the species are not sufficiently well known to identify any area that meets the definition of "critical habitat" (50 CFR 424.12(a)(2)). We will propose critical habitat for the Western North Pacific, Mexico, and Central America DPSs of the humpback whale in a separate rulemaking if we determine that it is prudent to do so. (See 50 CFR 424.12(a)(1).)

Classification

National Environmental Policy Act (NEPA)

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 657 F. 2d 829 (6th Cir. 1981), we have concluded that NEPA does not apply to ESA listing actions. (See NOAA Administrative Order 216–6 (1999), § 6.03.e.1; NAO 216–6A (2016), § 6.01.) Further, we conclude that extension of the section 9(a)(1) protections in a blanket or categorical fashion is a form of ministerial action taken under the authority of the second sentence of ESA section 4(d). Courts have found that it is reasonable to interpret the second sentence of section 4(d) as setting out distinct authority from that of the first sentence, which is invoked when the agency proposes tailored or special protections that go beyond the standard section 9 protections. See *In re Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 818 F. Supp. 2d 214, 228 (D.D.C. 2011); *Sweet Home Chapter of Cmties. for a Great Oregon* v. *Babbitt,* 1 F.3d 1, 8 (D.C. Cir.1993), *modified on other grounds on reh'g,* 17 F.3d 1463 (D.C. Cir. 1994), *rev'd on other grounds,* 515 U.S. 687 (1995). This type of action is covered under the NOAA categorical exclusion for "policy directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature . . . ." See NAO 216–6, § 6.03c.3(i). None of the exceptional circumstances of § 5.05c of NAO 216–6 applies. That is, the action does not involve a geographic area with unique characteristics, is not the subject of public controversy based on potential environmental consequences, does not have uncertain environmental impacts or unique or unknown risks, does not establish a precedent or decision in principle about future proposals, will not result in cumulatively significant impacts, and will not have any adverse effects upon endangered or threatened species or their habitats. In particular, the rule may not reasonably be said to potentially have "any adverse effects upon endangered or threatened species or their habitats" because here the rule will ensure the same level of protections continue to apply to any threatened DPS, which benefits the species. In addition, we note that there will be no change in the legal or regulatory status quo as it relates to the threatened DPS of humpback whales, because these whales have for decades been covered by all protections of section 9 as endangered species. Issuance of this rule thus does not alter the legal and regulatory status quo in such a way as to create any environmental effects. See *Humane Soc. of U.S.* v. *Johanns,* 520 F. Supp. 2d. 8, 29 (D.D.C. 2007). NEPA analysis is not required in cases where the rule will not result in any physical effects to the environment, much less any adverse effects. See *Oceana, Inc.* v. *Bryson,* 940 F. Supp. 2d 1029 (N.D. Cal. 2013).

Executive Order (E.O.) 12866, Paperwork Reduction Act, and Regulatory Flexibility Act

This rule is exempt from review under E.O. 12866. This final rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analyses required by the Regulatory Flexibility Act are not applicable to the listing process.

E.O. 13132, Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific directives for consultation in situations where a regulation will preempt state law or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this final rule; therefore this action does not have federalism implications as that term is defined in E.O. 13132.

E.O. 13175, Consultation and Coordination with Indian Tribal Governments

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and co-management agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. E.O. 13175—Consultation and Coordination with Indian Tribal Governments—outlines the responsibilities of the Federal Government in matters affecting tribal interests. Section 161 of Public Law 108–199 (188 Stat. 452), as amended by section 518 of Public Law 108–447 (118 Stat. 3267), directs all Federal agencies to consult with Alaska Native tribes or organizations on the same basis as Indian tribes under E.O. 13175.

We have coordinated with tribal governments and native corporations that may be affected by the action. We provided them with a copy of the proposed rule, and offered the opportunity to comment on the Monitoring Plan. We did not receive any comments.

References Cited

A list of all references cited in this final rule is available at *www.regulations.gov* (identified by docket number NOAA–NMFS–2015–0035) or upon request from NMFS (see **ADDRESSES**).

List of Subjects

50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

50 CFR Part 224

Endangered and threatened species.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, in the table in paragraph (e), add an entry for "Whale, humpback (Mexico DPS)" under MARINE MAMMALS in alphabetical order by common name to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species[1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
		Marine Mammals			
*	*	*	*	*	*
Whale, humpback (Mexico DPS).	*Megaptera novaeangliae.*	Humpback whales that breed or winter in the area of mainland Mexico and the Revillagigedos Islands, transit Baja California, or feed in the North Pacific Ocean, primarily off California-Oregon, northern Washington-southern British Columbia, northern and western Gulf of Alaska and East Bering Sea.	81 FR [Insert Federal Register page where the document begins], September 8, 2016.	NA	223.213
*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

■ 3. Add § 223.213 to subpart B to read as follows:

§ 223.213 Humpback whales.

The prohibitions of section 9(a)(1)(A) through 9(a)(1)(G) of the ESA (16 U.S.C. 1538) relating to endangered species apply to threatened species of the humpback whale listed in § 223.102(e).

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 4. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 5. In § 224.101, in the table in paragraph (h), remove the entry for "Whale, humpback" and add four entries in its place to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
		Marine Mammals			
*	*	*	*	*	*
Whale, humpback (Arabian Sea DPS).	*Megaptera novaeangliae*.	Humpback whales that breed and feed in the Arabian Sea.	81 FR [Insert **Federal Register** page where the document begins], September 8, 2016.	NA	NA
Whale, humpback (Cape Verde Islands/Northwest Africa DPS).	*Megaptera novaeangliae*.	Humpback whales that breed in waters surrounding the Cape Verde Islands in the Eastern North Atlantic Ocean, as well as those that breed in an undetermined breeding area in the eastern tropical Atlantic (possibly Canary Current) and feed along the Iceland Shelf and Sea and the Norwegian Sea.	81 FR [Insert **Federal Register** page where the document begins], September 8, 2016.	NA	NA
Whale, humpback (Central America DPS).	*Megaptera novaeangliae*.	Humpback whales that breed in waters off Central America in the North Pacific Ocean and feed along the west coast of the United States and southern British Columbia.	81 FR [Insert **Federal Register** page where the document begins], September 8, 2016.		
Whale, humpback (Western North Pacific DPS).	*Megaptera novaeangliae*.	Humpback whales that breed or winter in the area of Okinawa and the Philippines in the Kuroshio Current (as well as unknown breeding grounds in the Western North Pacific Ocean), transit the Ogasawara area, or feed in the North Pacific Ocean, primarily in the West Bering Sea and off the Russian coast and the Aleutian Islands.	81 FR [Insert **Federal Register** page where the document begins], September 8, 2016.		
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[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

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■ 6. Remove and reserve § 224.103(a) to read as follows:

§ 224.103 Special prohibitions for endangered marine mammals.

(a) [Reserved]

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[FR Doc. 2016–21276 Filed 9–6–16; 4:15 pm]

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Part III

Department of State

22 CFR Part 96
Intercountry Adoptions; Proposed Rule

DEPARTMENT OF STATE

22 CFR Part 96

[Public Notice: 9521]

RIN 1400–AD91

Intercountry Adoptions

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State (the Department) proposes to amend requirements for accreditation of agencies and approval of persons to provide adoption services in intercountry adoption cases. The proposed rule includes a new subpart establishing parameters for U.S. accrediting entities to authorize adoption service providers who have received accreditation or approval to provide adoption services in countries designated by the Secretary, which will be known as "country-specific authorization" (CSA). Adoption service providers will only be permitted to act as primary providers in a CSA-designated country if they have received CSA for that particular country. The proposed rule also strengthens certain standards for accreditation and approval, including those related to fees and the use of foreign providers. In addition, the proposed rule enhances standards related to preparation of prospective adoptive parents so that they receive more training related to the most common challenges faced by adoptive families, and are better prepared for the needs of the specific child they are adopting. These proposed changes are intended to align the preparation of prospective adoptive parents with the current demographics of children immigrating to the United States through intercountry adoption. Finally, the proposed rule makes the mechanism to submit complaints about adoption service providers available to complainants even if they have not first addressed their complaint directly with the adoption service provider.

DATES: The Department will accept comments on the proposed regulation up to November 7, 2016.

ADDRESSES:

- *Internet:* You may view this proposed rule and submit your comments by visiting the *Regulations.gov* Web site at *www.regulations.gov,* and searching for docket number DOS–2016–0056.
- *Mail or Delivery:* You may send your paper, disk, or CD–ROM submissions to the following address: Comments on Proposed Rule 22 CFR part 96, Office of Legal Affairs, Overseas Citizens Services, U.S. Department of State, CA/OCS/L, SA–17, Floor 10, Washington, DC 20522–1710.
- All comments should include the commenter's name and the organization the commenter represents (if applicable). If the Department is unable to read your comment for any reason, the Department might not be able to consider your comment. Please be advised that all comments will be considered public comments and might be viewed by other commenters; therefore, do not include any information you would not wish to be made public. After the conclusion of the comment period, the Secretary will publish a final rule as expeditiously as possible in which it will address relevant public comments.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Trish Maskew, (202) 485–6024.

Legal Information: Carine L. Rosalia, (202) 485–6092.

SUPPLEMENTARY INFORMATION:

Why is the Secretary promulgating this rule?

On February 15, 2006, the Secretary published the final rule, 71 FR 8064, on the accreditation and approval of agencies and persons in accordance with the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention) and the Intercountry Adoption Act of 2000, (IAA), Public Law 106–279 (42 U.S.C. Chapter 143). The Convention and the law implementing it generally require the accreditation of agencies (private, non-profit organizations licensed to provide adoption services in at least one State) and the approval of persons (individuals and private, for-profit entities) to provide adoption services in Convention cases. The Secretary revised these regulations with a final rule published on February 10, 2015 (80 FR 7321), to reflect the requirements of the IAA as amended by the Intercountry Adoption Universal Accreditation Act of 2012, (UAA), (Pub. L. 112–276). The Act requires that the accreditation standards developed in accordance with the Convention and the IAA, which previously only applied in Convention adoption cases, apply also in non-Convention adoption cases, known as "orphan" cases, based on the definition of "orphan" in section 101(b)(1)(F) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101(b)(1)(F)). The changes proposed in this rule derive from the Secretary's authority to promulgate regulations that prescribe the standards and procedures for the accreditation of agencies and the approval of persons under section 203(a)(1) of the IAA (42 U.S.C. 14923(a)(1)). Among these changes in the proposed rule, we are reinserting a definition of "central authority function." This term had been defined in the IAA, but was deleted from the regulations when we revised them in order to implement the UAA. The definition now proposed has been redrafted to include the duties carried out by a Central Authority or equivalent functions completed by a competent authority in non-Convention countries.

The Secretary also revised these regulations with a final rule published on August 19, 2015 (80 FR 50195). That rule revised the accreditation regulations relating to application for renewal of accreditation found in subpart G of 22 CFR part 96, and authorizes an accrediting entity to stagger renewals and establishes criteria for selecting which agencies or persons are eligible for an extension of accreditation or approval for up to one year.

Overview of Proposed Changes to the Accreditation Regulations

A. Country-Specific Authorization (CSA)

The Department makes every effort to secure and support intercountry adoption between the United States and foreign countries as a viable option for children in need of permanent homes. There may be instances in which the Secretary, in consultation with the Secretary of Homeland Security, would deem it necessary and beneficial to designate one or more countries for which adoption service providers (ASPs) would have to obtain CSA in order to act as a primary provider with respect to adoptions from that country. The requirement for country-specific authorization in addition to accreditation or approval would be designed to enhance existing protections in the intercountry adoption process. The following examples illustrate how CSA could be employed:

Documenting Compensation and Certain Fees

The revisions to 22 CFR 96.34 would only allow ASPs to compensate its employees, supervised providers, and foreign providers, or any other individual or entity involved in intercountry adoption, amounts that are "not unreasonably high in relation to the services actually rendered," as opposed to the previous standard which also said that such compensation would be in relation to "norms for compensation within the intercountry adoption community in that country, to the extent that such norms are known to the accrediting entity.'' Under this revised standard, the Department could determine the ranges of compensation that are reasonable for adoption-related services in specific countries.

CSA would further enhance compliance with this standard, as revised in this proposed rule, by re-weighting this standard in a particular CSA-designated country, from ''foundational'' to ''mandatory,'' so that ASPs would have to demonstrate full compliance with the relevant range of compensation for that country in 100 percent of cases. In addition, the standard in 22 CFR 96.40, requiring the itemization of expected fees and estimated expenses in the Country of Origin (COO), could be weighted more heavily in order to maintain substantial compliance with CSA. The Department could also require additional evidence from adoption service providers that the amount of money they require prospective adoptive parents to provide as support to orphanages or child-welfare centers in a foreign country is not unreasonably high for that particular country, for the purposes of 22 CFR 96.40(f). Requiring additional evidence as to what constitutes unreasonably high amounts would further prevent payments to orphanages or child-welfare centers from being used as inducement to place a child for adoption with a specific provider or parent.

Obtaining Medical and Social Information About the Child

In a Country of Origin (COO) in which the Department has concerns that reliable medical or social information about children eligible for adoption is not widely available, the Department, through CSA, may require additional evidence with regard to what constitutes reasonable efforts to obtain the child's medical information (22 CFR 96.49(d)) and social information (22 CFR 96.49(g)). Requiring additional evidence regarding what steps have been taken to obtain the information would help create a more consistent standard within a particular country. This may be especially important if there are divergent interpretations among adoption service providers as to what constitutes reasonable efforts to obtain certain information about a child placed for adoption or as to what information is, in fact, ''available.''

Each CSA designation would be tailored to the conditions in a specific country of origin, and might combine any of the above examples, along with other similar protections tailored to the conditions in a specific country. Each CSA designation would be designed to bolster confidence in adoption service providers' activities with regard to that particular country such that CSA may also allow for the initiation or continuation of intercountry adoption where it might otherwise not be possible.

Article 12 of the Convention provides: ''A body accredited in one Contracting state [what U.S. authorities call an accredited agency or approved person] may act in another Contracting state only if the competent authorities of both states have authorised [sic] it to do so.'' Authorities in countries of origin have their own procedures for providing authorization to accredited bodies from other countries, including to U.S. agencies and persons to provide adoption-related services within their country. To better reflect and address the practices that have evolved in recent years, we have added to § 96.12 a provision that would require U.S. adoption service providers to maintain authorization received from the foreign country, if required by that country, in order to be able to provide services related to intercountry adoptions in cases involving that country. Currently, in the United States, agencies or persons that are accredited or approved pursuant to section 201 of the IAA are considered to be authorized by the United States to act in intercountry adoption cases in every foreign country. The United States would continue this practice of considering accredited agencies or approved persons to be authorized to provide adoption services related to intercountry adoptions generally. However, the proposed rule would require that, only in specific countries designated by the Secretary, in consultation with the Secretary of Homeland Security, accredited agencies or approved persons must also obtain country specific-authorization in order to act as a primary provider with respect to intercountry adoption in the designated country.

Under Title Two of the IAA, section 203, the Secretary, by regulation, prescribes the standards and procedures to be used by accrediting entities for the accreditation of agencies and the approval of persons. An accrediting entity, when evaluating an agency's or person's eligibility for accreditation or approval, evaluates an agency's or person's compliance with applicable standards in 22 CFR part 96 subpart F. Once accredited or approved, an agency or person may offer or provide adoption services in cases involving any foreign country to the extent permitted by the foreign country. For each country for which CSA would be required, the Secretary, in consultation with the Secretary of Homeland Security, would propose to set forth, in a public announcement, a country specific method of determining substantial compliance with one or more of the standards in subpart F. That method may include increasing the ''weight'' assigned to one or more particular standards, and may include additional or specified evidence that the adoption service provider will need to provide to demonstrate compliance with those standards. To obtain country-specific authorization for a particular CSA-designated country, an accredited or approved adoption service provider would need to demonstrate substantial compliance with the country specific criteria for that country. The accrediting entity, as proposed here, would evaluate the authorized agency's or person's substantial compliance with the accreditation and approval standards based on requirements to provide additional or specified evidence or comply with a more heavily weighted standard that has been tailored to a specific country.

The Department proposes the creation of a new subpart N of 22 CFR part 96 to implement CSA. The procedures outlined in the new subpart N are based on the existing accreditation and approval procedures and requirements in 22 CFR part 96. The new subpart N would address the scope of CSA; application procedures, the length of CSA, renewal of CSA; the denial of CSA and a review of decisions of denial; complaints relating to compliance with CSA, their review by the accrediting entity, and possible referral to the Secretary or other authorities; and the decision by the accrediting entity to take CSA-related adverse actions. The standards governing accreditation, renewal of accreditation, and CSA would be the same; however, CSA may require ASPs to meet more heavily weighted standards, or show additional or specified evidence with regard to compliance with a standard.

Complaints received related to CSA of an adoption service provider would be submitted through the complaint registry and may be handled as other complaints are handled. Provisions in § 96.101(b) would, however, require the accrediting entity to verify whether complainants had attempted to resolve the complaints through the provider's established internal complaint procedures and if not, allow the accrediting entity to refer the complaints to the provider for resolution. Providing the accrediting entity with discretion to refer such complaints first to the adoption service provider allows the accrediting entity the flexibility to determine if there are sufficient reasons not to do so, such as concerns expressed by adoptive parents still in the adoption process that an adoption service provider might retaliate against them or their child, and concerns that complaints indicating potentially illegal activities are best brought to the attention of the accrediting entity immediately. (A provision in § 96.69 discussed in part D., below, is similarly justified.)

The date of expiration for CSA ordinarily would coincide with the date of expiration of the accreditation or approval cycle of the specific ASP. CSA would be granted for no less than three and no more than five years.

The proposed rule would also amend sections in part 96 to include CSA-related functions as part of an accrediting entity's accreditation and approval duties. The Department proposes to add additional definitions, explanatory language, and references to CSA, where necessary.

B. Provision of Adoption Services and Fee Disclosures

The proposed rule would amend part 96 to strengthen certain accreditation and approval standards, including those related to fee disclosures, and those related to the use of foreign providers. Such changes would further strengthen the provision of adoption services. These changes derive from observations and experience about the practical operation of the accreditation and approval regulations in the seven years since the regulations became effective. The proposed rule would incorporate language contained in the definitions section of the IAA, at proposed § 96.2 (Definitions, Adoption Services), in order to make explicit that "provision" of an adoption service includes "facilitating" the adoption service. For services that are subject to verification and do not require supervision as outlined in § 96.14(c)(3), the Department further proposes to limit an agency's or person's use of foreign providers to situations in which a primary provider has not previously worked with the foreign provider in the current or previous accreditation cycle, or where the primary provider has not accepted the case as part of a transfer plan in § 96.33(f).

To increase transparency and provide the accrediting entity with an effective tool for assessing an agency's or person's compliance with the prohibition on child buying as articulated in § 96.36, addition of provisions in § 96.36(b)(1) and (2) would have the ASP document foreign financial transactions in a way that maintains a reviewable record of what expenditures were paid and for what purposes.

The proposed rule in § 96.40 also would require agencies or persons, when disclosing fees to prospective adoptive parents, to distinguish fees in the United States from those in a foreign country. In addition, as a provision in § 96.40(j) preserving consumer protections for prospective adoptive parents who may not realize the risk of waiving their approval, the proposed revisions delete previous provisions allowing adoption service providers to obtain a waiver from prospective adoptive parents such that the providers need not seek prospective adoptive parents' specific consent for expending funds in excess of $1,000. This requirement would better encourage providers to disclose all known fees ahead of time and make it easier for prospective adoptive parents to compare fees between agencies and persons. Requiring additional itemization and distinction between fees and expenses in the United States and fees and expenses abroad would make it easier for prospective adoptive parents to compare the costs for services and provide greater transparency as to how the agency spends that money. The proposed revisions would create greater transparency with respect to the expenditure of money in intercountry adoptions.

Finally, the proposed rule revisions in § 96.40(f) aim to prohibit accredited agencies or approved persons from charging prospective adoptive parents to care for a child prior to completion of the intercountry adoption process. In recent years, accredited agencies and approved persons have begun charging prospective adoptive parents monthly support fees for children where the intercountry adoption process is not complete. In some cases, these fees are significantly higher than the normal costs associated with the care of children in the foreign country. Where institutions can collect large fees for the care of a particular child, an incentive may be created to recruit children into institutions, while also providing a disincentive for expeditious processing of an adoption. These practices substantially increase the costs of adoption for prospective adoptive parents, and may result in a situation where an adoptive family pays for long-term care of a child who is not in fact eligible for intercountry adoption.

C. Accreditation and Approval Standards Related to Training and Preparation of Prospective Adoptive Parents

The Department proposes to create significant changes aimed at improving the level of preparedness of prospective adoptive parents and increasing the chances of successful and permanent adoption through the intercountry process. Increased training requirements for prospective adoptive parents may better prepare them to help their child, recently adopted through the intercountry adoption process, adjust to a new environment. The profile of many of the children currently eligible for intercountry adoption is dramatically different from the profile of children at the time when the regulations were initially published in 2006. At that time, the majority of children adopted through intercountry adoption were healthy infants or very young children. The demographics of children adopted through intercountry adoption now include a higher percentage of older children, children with special needs, and sibling groups. The proposed rule, therefore, would align intercountry adoption training requirements with the training requirements for those who wish to adopt through the child welfare systems of the various U.S. States which have long recognized the training needed for older children, sibling groups, and children with medical or other needs. Prospective adoptive parents would complete the requirements for their State of residence, information about which is available through the Department of Health and Human Service's National Resource Center for Diligent Recruitment, *http://www.nrcdr.org/_assets/files/NRCDR-org/type-of-training-by-state.pdf,* or an equivalent.

Proposed changes to 22 CFR 96.48 to 96.50 would include updated requirements related to training and preparation of prospective adoptive parents for accredited agencies and approved persons; these proposed changes seek to promote permanent placement and contribute to the prevention of disruptions of placements and dissolutions of adoptions, as well as unregulated custody transfer (also referred to as "rehoming"). The pre-adoption preparation and training that accredited agencies and approved persons provide to parents pursuing intercountry adoption would increase the minimum number of hours required and expand the issues that must be addressed. Our proposed change is based on the consistent feedback from the adoption and child welfare community that increased training improves outcomes. The Department requests comments on the effectiveness of training and the optimal number of hours of training.

The pre-adoption preparation and training regulations already include the intercountry adoption process, characteristics and needs of waiting children, and in-country conditions that affect the children; genetic, health, emotional and development risk factors; the impact of leaving familiar ties and of institutionalization on children; attachment disorders; the laws and adoption process in the country of origin; implications of becoming a multicultural family; post-placement and post-adoption reporting requirements; the child's history and background; health risks in the child's country of origin; and child-specific information based on available social, medical, and other background on the child. The proposed regulatory changes pertaining to the preparation and training of prospective adoption parents would require specific methods of presentation and include, in addition to existing training topics, training on grief, loss, identity, and trauma; characteristics of successful intercountry adoptive placements; exploration of the family's individual circumstances, including past disruptions and dissolutions and previous compliance with post-placement and post-adoption reporting requirements. To directly address growing concerns about disruption, dissolution, and unregulated custody transfer, the proposed changes would require adoption service providers to include information about disruption and dissolution in training and preparation programs for prospective adoptive parents. Adoption service providers would be required to provide specific points of contact for support in the event an adoptive family faces adjustment or other difficulties that place permanency at risk. In order to provide training that encourages parents to carefully consider their ability to meet the needs of a child adopted through the intercountry adoption process before entering into a contract for adoption services, the provisions in § 96.48(a)(1) would prohibit agencies and persons from making a referral or requiring payment of fees for the specified adoption services prior to completion of certain required training. Currently, an agency can match a child to a family that has not completed its home study and training, which makes it more difficult for the agency to determine whether the family is suitable for adoption and for a match with a specific child. Also, families that have already paid non-refundable fees may be less likely to self-identify as not suitable for an adoption once they learn more about the challenges an intercountry adoption may present. In accordance with the provisions in § 96.48(c)(1), after prospective adoptive parents are matched with a specific child, agencies or persons would need to discuss that child's specific needs and circumstances and how the family will address them. Agencies or persons would be required to provide prospective adoptive parents with resources and information about how and where to seek post-adoption services and support.

To address similar concerns as they relate to monitoring placements until final adoptions, in the event an adoptive family is in crisis during the post-placement phase, the proposed revisions would add an additional requirement that the ASP takes all appropriate measures to inform the parents of local and State laws and legal resources pertaining to disruption of a placement and appropriate measures for making another placement of a child, as well as providing resources to address potential future crises.

D. Submission of Complaints and Other Proposed Changes

The proposed rule in subpart J, § 96,69, would no longer require a complainant to first submit her/his complaint to the agency or person that is the subject of a complaint before submitting it to the complaint registry for action by the accrediting entity. Previously, complainants had to attempt to resolve their concerns directly with their provider before seeking a review of the matter by the accrediting entity. This change addresses multiple issues, including concerns expressed by adoptive parents still in the adoption process that an adoption service provider might retaliate against them or their child, and concerns that complaints indicating potentially illegal activities are best brought to the attention of the accrediting entity immediately. Changes in § 96.68 and § 96.70(b)(1) clarify that it is possible to file complaints relating to verification of certain adoption services that may be performed by foreign providers that were not supervised. A final key change found in subpart J is the change of the term ''investigate'' to ''review'' with respect to an accrediting entity's review of complaints. This change brings the language into conformity with the IAA. The Department made minor technical edits to §§ 96.70(a), 96.71, and 96.72 that do not have substantive impacts on the requirements.

Amendments to § 96.24(c) proposed here would require an agency or person to provide an appropriate setting for interviews and review of case documents by the accrediting entity when it conducts a site visit. Some provider operations take place in close quarters such as a private home where the ability of the accrediting entity's evaluator to carry out a discussion with employees or others or review documents is hindered. It is essential that an ASP provide a space that would allow the evaluator to carry out such interviews and reviews in order to secure pertinent information about an agency's or person's practices and programs.

Changes to § 96.33(a) would require disclosure of remuneration paid by adoption service providers to foreign providers, making it synonymous with the requirement that they disclose payments to everyone else. Addition of § 96.33(h) would provide a list of potential sources of information that would contribute toward an effective risk assessment as the basis for determining the type and amount of professional, general, directors' and officers', errors and omissions, and other liability insurance for an agency or person to carry.

Finally, the requirement to retain a completed FBI Form FD–258 contained in § 96.35(c)(4) and (d)(2) have been removed as this form cannot be used for the purpose stated in those provisions under current FBI guidance.

E. Implementing Changes in the Proposed Rule, if Approved

Some changes in the proposed rule would become effective 30 days after publication of the final rule, consistent with the Administrative Procedures Act (APA), while we envision others taking effect within three to nine months, for all agencies or persons currently accredited or approved and for those seeking accreditation or approval. Provisions in § 96.40 relating to fee disclosures would take effect 30 days after publication. To comply with the new rule, adoption service providers will need to change their fee disclosures. While the information required under the new rule should already be available to accredited or approved adoption service providers, the efforts to reflect the added specificity required by the new rule will require the APA-mandated 30-day period of implementation. Such a time frame would allow adoption service providers to review already available information, determine whether such fees and expenses should be characterized as fees and expenses in the United States or overseas, respectively, and begin to provide this information to prospective adoptive parents.

The provisions in § 96.2 (definition of adoption services) and § 96.14 relating to supervised providers would take effect 90 days after publication. Ninety days provides sufficient time for the agency or person to appropriately vet, enter into a contractual agreement with, and begin supervising facilitators. The provisions in § 96.48 relating to training and prospective adoptive parent preparation would take effect nine months after the publication of the final rule. The Department recognizes the efforts required from accredited or approved providers to identify available training programs required by the relevant State to adopt a child through the State's child welfare system, or an equivalent if the State program is unavailable, as well as develop new curriculum specific to intercountry adoption. The Department anticipates that provisions allowing the Secretary to designate a country as requiring CSA and the minor other changes will take effect within 30 days of publication of the final rule

Regulatory Analysis

Administrative Procedure Act

The Department is issuing this rule as a proposed rule with a 60-day period for public comments.

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute unless the agency certifies, pursuant to 5 U.S.C. 605(b), that the rule will not have a significant economic impact on a substantial number of small entities and provides a factual basis for its certification. "Small entities" include "small organizations," which the RFA defines as any non-profit enterprise that is independently owned and operated and not dominant in its field. (5 U.S.C. 601(4), 601(6)).

The Secretary has reviewed this proposed rule's impact on small agencies and persons in accordance with the final regulatory analysis requirements of the RFA. There are currently approximately 200 accredited or approved adoption service providers, many of which are arguably "small entities" under the RFA that would have to comply with this rulemaking. For the reasons provided below, the Secretary has determined that the impact on small entities affected by the proposed rule will not be significant.

First, the effect of the proposed rule will be to allow agencies and persons the flexibility to choose to apply to obtain CSA to act as a primary provider in those countries for which the Secretary determines that CSA is required, or to act as supervised providers. Supervised providers are not required to become accredited or approved, nor are they required to obtain CSA, and thus they can largely avoid the economic impact of accreditation and approval and of obtaining CSA whenever they work under the supervision of a primary provider.

Second, certain types of very small providers, specifically home study and child background study preparers, are exempted from the requirement for accreditation, even in CSA countries, because their work is reviewed and approved by an agency that is accredited.

Third, with respect to revisions to accreditation standards in the proposed rule that impact all 200 accredited agencies and approved persons, such as standards relating to disclosure of fees, preparation of prospective adoption parents, and revisions clarifying the role of primary providers, the IAA and the regulations use an accreditation model, and a substantial compliance structure that provides agencies and persons with ample opportunity to correct deficiencies before accreditation or approval is denied. Thus, the accreditation model used in this proposed rule allows for the majority of the standards to be performance-based. Substantial compliance, which is typical of regulations based on an accreditation scheme, inherently provides for regulatory flexibility because entities are not required to comply perfectly with every single standard. Overall, these features of the proposed rule minimize the burden on small entities.

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although the Department does not think these regulations will have a significant economic impact on a substantial number of small entities, it would like to solicit comment from the public on the following questions: (1) Will most small agencies desire to apply for CSA in countries where the Secretary has determined that CSA is required? (2) What will the cost be to small entities to comply with the fee disclosure provisions of the proposed rule? (3) What are accrediting entities likely to charge the agencies for the country specific authorization process? (4) What are the estimated costs agencies will have to expend to comply with the standards in Subpart N? It would be helpful if commenters would supply information and data to support their comments on these enumerated issues.

The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and import markets.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (codified at 2 U.S.C. 1532) generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments or the private sector.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders 12372 and No. 13132.

Executive Orders 12866 and 13563

The Secretary has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866, and has determined that the benefits of this proposed regulation justify its costs. The Secretary does not consider this rulemaking to be an economically significant action within the scope of section 3(f)(1) of the

Executive order. The estimated economic impact of implementing key changes in the proposed rule revising the intercountry adoption accreditation regulations is less than $1,000,000, and well under the $100 million threshold set by E.O. 12866 as having a significant economic impact. Furthermore, given the relatively low cost to the public, and given the high public benefit provided by the proposed rule in terms of stronger preparations of prospective adoptive parents for a successful intercountry adoption, greater transparency as to adoption fees both in the United States and abroad, and the potential for improving practices in certain countries of origin through country specific authorization that could potentially result in beginning or resuming intercountry adoption in countries of origin, this proposed rule demonstrates both the letter and the spirit of the principles embodied in E.O. 12866.

1. Country Specific Authorization (CSA)

Cost to the Accrediting Entity: Almost all of the costs associated with implementing the application process to qualify for CSA for a country designated by the Secretary, would be captured in the application fee charged to each adoption service provider. The application fee would relate directly to the review of application materials relating to the requirements for CSA that are tailored to circumstances in the designated country of origin.

Cost to the Adoption Service Providers: Because CSA would involve meeting new weighting or evidentiary requirements relating to existing standards, it would not likely impose significant costs on accredited and approved providers. Notwithstanding our projection that ASPs seeking CSA will be able to do so without significant additional cost to them beyond those normally associated with their accreditation, except for an application fee for CSA paid to the accrediting entity, some ASPs may believe they would incur additional costs to adapt their practices to conform with enhanced weighting and evidentiary requirements to qualify for CSA. Because the standards implicated are likely to vary with each iteration of CSA, it is not possible to project what those costs might be. The public is invited to comment on what, if any, additional costs ASPs might incur to qualify for CSA.

Estimated Cost To Implement CSA: An average cost of $1,500 per applicant per CSA iteration.

- An average of 15 applicants per iteration of CSA
- At an estimated average cost of $1,500 per applicant
- Equals $22,500 per CSA iteration.
  - ○ An average of two CSA designations per year
  - ○ = $22,500 × 2 = $45,000 per year.

Total Estimated Cost for CSA Implementation per Year: $45,000.

2. Strengthening Standards Related to Disclosure of Fees

The fee disclosure provisions in the proposed rule would refine the way fees are characterized and when and how they must be disclosed. However, these providers already know what they charge prospective adoptive families to complete an adoption abroad in specific countries. Disclosing the expected fees and expenses across an array of cost categories as defined in proposed § 96.40 would not be onerous or costly. We estimate the disclosure provisions would involve minimal administrative costs and labor associated with appropriately categorizing the fees and expenses, as well as printing new documents and making changes to a Web site, and that costs to ASPs and the accrediting entity (AE) associated with putting the new fee disclosure rules in place would be minimal. As we expect these costs to be less than $500, we are using a primary average estimate of $400.

Total Cost To Implement Fee Disclosure Changes: $400.

3. Training and Preparing Prospective Adoptive Parents for Successful Parenting of Children Adopted Internationally

Changes in the training requirements for prospective adoptive parents in § 96.48 have three main elements:

(a) 20 hours of training offered by the State of residence that is provided to families adopting from the foster care system, or an equivalent where a State program is unavailable for prospective adoptive parents who wish to complete an intercountry adoption. We see three ways for families to obtain this training:

(1) States may provide the same training to intercountry adopting families as provided to families adopting from the foster care system in the State at no cost to the families. We anticipate that as many as 20 percent of adoptive families will be permitted to receive the required training through existing State training programs;

Cost to Participants of Training Provided by States

- This training is provided without out-of-pocket cost to prospective adoptive families, aside from the time spent in the training.

Monetizing the Time Burden of Adoptive Parent Training

- Using the Bureau of Labor Statistics latest publication (June 2016) reporting average hourly wages of private, non-farm labor, the national average for all sectors is approximately $26. Thus, 20 hours of training would equate to approximately $520 per parent. If 20 percent of the estimated 6,000 prospective adoptive parents were to engage in such training each year, the time burden would equal approximately $624,000. However, this training will not require out-of-pocket payment by prospective adoptive parents.

(2) ASPs may obtain training materials and participant workbooks already developed and ready to use supplied by one of the four primary training systems used throughout the United States for approximately $800, including a training manual and training DVDs, reproducible as needed for home study preparers, who normally would provide this training, along with a participant's manual available for $20 each.

Estimated Cost of This Training Option for All Trainers (One-Time Cost)

- $800 plus the cost of reproducing the training manual and training DVDs 100 copies of the training materials at $20 each = $2,000 for reproduction of training materials.
- $800 + $2,000 = $2,800 for all trainers counted together.

Estimated Cost for All Prospective Adoptive Parents Annually

- $20 each* × 5000 = $100,000

(*estimation assumption: of 5,648 U.S. intercountry adoptions in FY 2015, two thirds were adoptions of single children by one family, and the rest were adopted as sibling groups resulting in about 5,000 total adoptive families adopting that year. $20 × 5,000 = $100,000.)

Total Estimated Cost of ASPs Providing Independent Training Programs Equivalent to State Programs

- $2800 + $100,000 = $102,800 per year.

(3) A final option available to meet this new standard would be for an ASP to develop brand-new training materials tailored to the specific content and branding needs of individual providers. Because it is not possible to predict the cost to develop such training independently from scratch—we cannot predict the scale of users who would share in the cost, nor the extent to which the training is web-based, DVD-based, or fully human-moderated—we

do not make a projection of the cost of this option. It seems likely that the other two options will be the preferred options for those for whom the training is required.

Total Estimated Cost of Training

- $102,800 per year.

Total Overall Estimated Economic Impact for the First Year in Terms of Costs to Adoption Service Providers and Prospective Adoptive Parents Taken as a Whole

- $45,000 (CSA) + ($400 Fee Reporting) + $102,800 (Parent Training) + $624,000 (opportunity cost of training) = $772,400. Most of this cost is not an out-of-pocket cost but represents the opportunity cost of time spent in training.

Subsequent years would have similar costs minus the one-time cost of obtaining training materials for the required 20 hours of training equivalent to training offered by the State of residence that is provided to families adopting from the foster care system ($102,800). The public is invited to comment on what, if any, additional costs ASPs might incur to implement the training provisions of the proposed rule.

Benefits of the Proposed Changes: The proposed changes in this rule would provide public benefit in terms of stronger preparations of prospective adoptive parents for a successful intercountry adoption, greater transparency as to adoption fees both in the United States and abroad, and the potential for improving practices in certain countries of origin through CSA that could potentially result in beginning or resuming intercountry adoption in countries of origin,

Executive Order 12988: Civil Justice Reform

The Secretary has reviewed these regulations in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation risks, establish clear legal standards, and reduce burden. The Secretary has made every reasonable effort to ensure compliance with the requirements in Executive Order 12988.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking

The Paperwork Reduction Act of 1995

In accordance with 42 U.S.C. 14953(c), this rule does not impose information collection requirements subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 96

Adoption, Child welfare, Children, Child immigration, Foreign persons.

For the reasons stated in the preamble, the Secretary proposes to amend 22 CFR part 96 as follows:

PART 96—INTERCOUNTRY ADOPTION ACCREDITATION OF AGENCIES AND APPROVAL OF PERSONS

■ 1. The authority citation for part 96 is revised to read as follows:

Authority: The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at The Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); 42 U.S.C. 14901–14954; 42 U.S.C. 14925.

Subpart A—General Provisions

■ 2. Amend § 96.1, in the first sentence, by removing the comma and space between "106–279" and the closing parenthesis, and by adding a sentence to the end of the paragraph to read as follows:

§ 96.1 Purpose.

* * * Subpart N of this part establishes the general procedures for country specific authorization.

§ 96.2 [Amended]

■ 3. Amend § 96.2 by:

■ a. Adding a sentence to the end of paragraph (6) of the definition of "Adoption service"; and

■ b. Adding definitions for "Authorization", "Central Authority function", "Country specific authorization (CSA)", and "USCIS" in alphabetical order:

The additions read as follows:

§ 96.2 Definitions.

* * * * *

Adoption service * * *

(6) * * * The term "providing," with respect to an adoption service, includes facilitating the provision of the service.

* * * * *

Authorization means the permission from a Central Authority for an agency or person to act in a country with respect to an intercountry adoption. In the United States, accreditation or approval provides general authorization to act with respect to an intercountry adoption, other than in those countries for which the Secretary has also required country specific authorization (CSA). Where required, an accredited agency or approved person must also have the authorization of the relevant country to act in that country.

* * * * *

Central Authority function means any duty required to be carried out by a Central Authority in a Convention country, or equivalent function in a non-Convention country.

* * * * *

Country specific authorization (CSA) means authorization by a U.S. accrediting entity of an accredited agency or approved person in the United States to act as a primary provider under § 96.14(a) in connection with an intercountry adoption involving a specific foreign country identified by the Secretary, according to subpart N of this part. While CSA requires compliance with all requirements imposed by a foreign country in relation to intercountry adoption, CSA does not constitute authorization from a foreign government to engage in activities related to intercountry adoption, where such authorization is required. CSA ceases automatically and immediately upon the corresponding foreign country's withdrawal or cancellation of its authorization of the agency or person.

* * * * *

USCIS means U.S. Citizenship and Immigration Services within the U.S. Department of Homeland Security.

Subpart B—Selection, Designation, and Duties of Accrediting Entities

■ 4. Revise § 96.4(c) to read as follows:

§ 96.4 Designation of accrediting entities by the Secretary.

* * * * *

(c) A public entity, within the meaning provided in § 96.5(b), may only be designated to accredit agencies and approve persons that are located in the public entity's State.

■ 5. Revise § 96.6(c) to read as follows:

§ 96.6 Performance criteria for designation as an accrediting entity.

* * * * *

(c) That it can monitor the performance of agencies it has accredited and persons it has approved (including their use of any supervised providers and verification of adoption services provided by foreign providers) to ensure their continued compliance with the Convention, the IAA, the UAA, and the regulations implementing the

IAA or UAA; it can also monitor the performance of those accredited agencies and approved persons to which it has granted country specific authorization;

* * * * *

■ 6. Amend § 96.7 by:

■ a. Redesignating paragraphs (a)(3) through (8) as paragraphs (a)(4) through (9), respectively, and add new paragraph (a)(3); and

■ b. Revising newly redesignated paragraph (a)(5).

The additions and revisions read as follows:

§ 96.7 Authorities and responsibilities of an accrediting entity.

(a) * * *

(3) Determining whether such agencies or persons are also eligible for country specific authorization when such authorization is sought;

* * * * *

(5) Reviewing complaints about accredited agencies and approved persons (including their use of supervised providers and verification of adoption services provided by foreign providers);

* * * * *

■ 7. Revise § 96.8(a) and (b) to read as follows:

§ 96.8 Fees charged by accrediting entities.

(a) An accrediting entity may charge fees for accreditation or approval services and where applicable, for country specific authorization, under this part only in accordance with a schedule of fees approved by the Secretary. Before approving a schedule of fees proposed by an accrediting entity, or subsequent proposed changes to an approved schedule, the Secretary will require the accrediting entity to demonstrate:

(1) That its proposed schedule of fees reflects appropriate consideration of the relative size and geographic location and volume of intercountry adoption cases of the agencies or persons it expects to serve; and

(2) That the total fees the accrediting entity expects to collect under the schedule of fees will not exceed the full costs of accreditation or approval and, where applicable, for country specific authorization, under this part (including, but not limited to, costs for completing the accreditation or approval process, complaint review, routine oversight and enforcement, and other data collection and reporting activities).

(b) The schedule of fees must:

(1) Establish separate non-refundable fees for accreditation and approval;

(2) Establish separate, non-refundable fees for country specific authorization; and

(3) Include in each fee for accreditation or approval or country specific authorization the costs of all activities associated with the accreditation or approval cycle or with country specific authorization, where appropriate, including but not limited to, costs for completing the accreditation or approval process, costs for completing country specific authorization, where applicable, complaint review, routine oversight and enforcement, and other data collection and reporting activities, except that separate fees based on actual costs incurred may be charged for the travel and maintenance of evaluators.

* * * * *

■ 8. Revise § 96.9(c) to read as follows:

§ 96.9 Agreement between the Secretary and the accrediting entity.

* * * * *

(c) How the accrediting entity will address complaints about accredited agencies and approved persons (including their use of supervised providers and verification of adoption services provided by foreign providers) and complaints about the accrediting entity itself;

* * * * *

■ 9. Revise § 96.10(c)(6) to read as follows

§ 96.10 Suspension or cancellation of the designation of an accrediting entity by the Secretary.

* * * * *

(c) * * *

(6) Failing to protect information, including personally identifiable information, or documents that it receives in the course of performing its responsibilities; and

* * * * *

Subpart C—Accreditation and Approval Requirements for the Provision of Adoption Services

■ 10. Amend § 96.12:

■ a. In the introductory text of paragraph (a) by removing "once the UAA becomes effective" and removing "transitional" and adding in its place "transition" in both places; and

■ b. By revising paragraph (c) and adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 96.12 Authorized adoption service providers.

* * * * *

(c) Neither conferral nor maintenance of accreditation or approval or country specific authorization, nor status as an exempted or supervised provider, nor status as a public domestic authority shall be construed to imply, warrant, or establish that, in any specific case, an adoption service has been provided consistently with, the Convention, the IAA, the UAA, or the regulations implementing the IAA or UAA. Conferral and maintenance of accreditation or approval, and, when required, country specific authorization, under this part establishes only that the accrediting entity has concluded, in accordance with the standards and procedures of this part, that the agency or person conducts adoption services in substantial compliance with the applicable standards set forth in this part; it is not a guarantee that in any specific case the accredited agency or approved person is providing adoption services consistently with the Convention, the IAA, the UAA, the regulations implementing the IAA or UAA, or any other applicable law, whether Federal, State, or foreign. Neither the Secretary nor any accrediting entity shall be responsible for any acts of an accredited agency, approved person, exempted provider, supervised provider, or other entity providing services in connection with an intercountry adoption.

(d) The agency or person must maintain authorization from the relevant foreign country, where the agency or person seeks to offer, provide, facilitate, verify or supervise the provision of adoption services in a foreign country, if required by that country.

(e) The agency or person, if seeking to act as a primary provider under 96.14(a) in connection with intercountry adoptions involving a country that has been designated by the Secretary as requiring country specific authorization, must maintain that country specific authorization as provided in subpart N of this part.

■ 11. Revise § 96.14(c)(3) to read as follows:

§ 96.14 Providing adoption services using other providers.

* * * * *

(c) * * *

(3) A foreign provider (agency, person, or other non-governmental entity) that is not under its supervision, where the primary provider has not previously worked with the foreign provider in the current or previous accreditation cycle, or where the primary provider has not accepted the case as part of a transfer plan in § 96.33(f), and either the foreign provider

(i) Has secured the necessary consent to termination of parental rights and to adoption prior to an accredited agency or approved person or their supervised providers providing any adoption service(s) in the case, other than preparing a home study on prospective adoptive parents, if the primary provider verifies consent pursuant to § 96.46(c); or

(ii) Has prepared a background study on a child in a case involving immigration to the United States (incoming case) or a home study on prospective adoptive parent(s) in a Convention adoption case involving emigration from the United States (outgoing case), and a report on the results of such a study prior to an accredited agency or approved person or their supervised providers providing any adoption service(s) in the case, other than preparing a home study on prospective adoptive parents, if the primary provider verifies the study and report pursuant to § 96.46(c).

* * * * *

■ 12. Revise § 96.15 to read as follows:

§ 96.15 Examples.

The following examples illustrate the rules of §§ 96.12 through 96.14:

Example 1. Identifying a child for adoption and arranging an adoption. Agency Y, located in the United States, takes steps to place a particular child residing in a foreign country with a particular adoptive family in the United States. Agency Y must be accredited, approved, or supervised because it is identifying a child and arranging an intercountry adoption. By contrast, Agency X, also a U.S. agency, identifies children eligible for adoption in the United States on a TV program in an effort to recruit prospective adoptive parent(s). A prospective adoptive parent residing in a foreign country calls Agency X about one of the children. Agency X refers them to an agency or person in the United States who arranges intercountry adoptions. Agency X does not require accreditation, approval, or supervision because it is not both identifying and arranging the adoption.

Example 2. Foreign supervised providers. Agency X, a U.S. agency, works in a foreign country with orphanage Y, facilitator A, orphanage director B, and driver/translator C. Agency X must supervise Orphanage Y, a private, non-governmental organization in a foreign country, if Agency X has established a formal or informal relationship or arrangement whereby Orphanage Y provides information or services to help Agency X match a particular child with an adoptive family. In that case, Orphanage Y, which is not a public foreign authority or a competent authority, is providing at least one adoption service (identifying a child and arranging an adoption). Throughout the adoption process, Facilitator A and Orphanage Director B work together to prepare documentation on the child and move the adoption paperwork through various ministries and government offices. Because "providing" an adoption service includes "facilitating" the provision of an adoption service, all the contributing services involved in placing a particular child with a particular family are considered the provision of an adoption service, and therefore must be supervised if not performed by the primary provider or public foreign authority. When Agency X uses foreign providers to provide adoption services, it must treat them as supervised providers in accordance with § 96.46(a) and (b), unless it is using the foreign providers in accordance with § 96.14(c)(3). By contrast, when the prospective adoptive parents arrive in the foreign country to adopt the child, Driver/Translator C drives them to various adoption-related appointments and serves as a translator. He does not, however, assist with transmitting documents, paying fees, or any other action related to the provision of adoption services. Agency X does not need to treat Driver/Translator C as a foreign supervised provider, because he is not providing or facilitating the provision of adoption services.

Example 3. Foreign supervised providers. Individual Y works in Foreign Country A gathering documentation on children eligible for adoption, including reports on the child prepared by orphanages and medical reports. Agency X, a U.S. agency, sends Individual Y information on prospective adoptive parents. Individual Y takes documents for a set of prospective adoptive parents, and for an eligible child, to the Ministry with the authority to match parents and children. The Ministry reviews the proposed match and issues documentation to assign the child to the prospective adoptive parent. Agency X must treat Individual Y as a foreign supervised provider in accordance with § 96.46(a) and (b) because Individual Y is providing adoption services.

Example 4. Child welfare services exemption. Doctor X evaluates the medical records and a video of Child Y. The evaluation will be used in an intercountry adoption as part of the placement of Child Y and is the only service that Doctor X provides in the United States with regard to Child Y's adoption. Doctor X (not employed with an accredited agency or approved person) does not need to be approved or supervised because she is not providing an adoption service as defined in § 96.2.

Example 5. Home study exemption. Social Worker X, in the United States, (not employed with an accredited agency or approved person) interviews Prospective Adoptive Parent Y, obtains a criminal background study, and checks the references of Prospective Adoptive Parent Y, then composes a report and submits the report to an accredited agency for use in an intercountry adoption. Social Worker X does not provide any other services to Prospective Adoptive Parent Y. Social Worker X qualifies as an exempted provider and therefore need not be approved or operate as supervised provider. In contrast, Social Worker Z, in the United States (not employed with an accredited agency or approved person) prepares a home study report for Prospective Adoptive Parent(s) W, and in addition re-enters the house after Child V has been placed with Prospective Adoptive Parent(s) W to assess how V and W are adjusting to life as a family. This assessment is post-placement monitoring, which is an adoption service. Therefore, Social Worker Z would need to become approved before providing this assessment for this intercountry adoption or else operate as a supervised provider. If an agency or person provides an adoption service in addition to a home study or child background study, the agency or person needs to become accredited, approved, or supervised before providing that adoption service.

Example 6. Child background study exemption. An employee of Agency X, a U.S. agency, interviews Child Y in the United States and compiles a report concerning Child Y's social and developmental history for use in an intercountry adoption. Agency X provides no other adoption services on behalf of Child Y. Agency X does not need to be accredited, approved, or supervised. Agency X is only conducting and creating a child background study, and therefore is an exempted provider. In contrast, an employee of Agency Z interviews Child W in the United States and creates a child background study for use in an intercountry adoption. Agency Z subsequently identifies prospective adoptive parent(s) and arranges a new adoption when Child W's previous adoption is dissolved. Agency Z needs to be accredited, approved, or supervised before providing this service. If an agency or person provides an adoption service in addition to a child background study or home study, the agency or person needs to be accredited, approved, or supervised before providing the additional service.

Example 7. Home study and child welfare services exemptions. Agency X, a U.S. agency, interviews Prospective Adoptive Parent Y, obtains a criminal background check, checks the references of Prospective Adoptive Parent Y, then composes a home study and submits it to an accredited agency for use in an intercountry adoption in the United States. Parent Y later joins a post-adoption support group for adoptive parents sponsored by Agency X. If Agency X performs no other adoption services, Agency X does not need to be accredited, approved, or supervised. If an agency or person provides a home study or child background study as well as other services in the United States that do not require accreditation, approval, or supervision, and no other adoption services, the agency or person is an exempted provider.

Example 8. Exempted provider. Agency X, a U.S. agency, interviews Prospective Adoptive Parent(s) Y, obtains a criminal background check, checks the references of Prospective Adoptive Parent(s) Y, and then composes a home study and submits the report to an accredited agency for review and approval. In addition, Agency X interviews Child Z and compiles a report concerning Child Z's social and developmental history. All of Agency X's work is done in the United States. Both reports will be used in an intercountry adoption. If Agency X performs no other adoption services, Agency X does not need to be accredited, approved, or supervised. If an agency or person provides a home study and child background study as well as other services that do not require accreditation, approval or supervision, and no other adoption services, the agency or person is an exempted provider.

Example 9. Legal services exemption. Attorney X (not employed with an accredited agency or approved person) provides advice and counsel to Prospective Adoptive Parent(s) Y on filling out DHS paperwork required for an intercountry adoption. Among other papers, Attorney X prepares an affidavit of consent to termination of parental rights and to adoption of Child W to be signed by the birth mother in the United States. Attorney X must be approved or supervised because securing consent to termination of parental rights is an adoption service. In contrast, Attorney Z (not employed with an accredited agency or approved person) assists Adoptive Parent(s) T to complete an adoption in the State in which they reside, after they have been granted an adoption in Child V's foreign country of origin. Attorney Z is exempt from approval or supervision because she is providing legal services, but no adoption services.

Example 10. Post-placement monitoring. A court in a foreign country has granted custody of Child W to Prospective Adoptive Parent(s) Y pending the completion of W's adoption. Agency X interviews both Prospective Adoptive Parent(s) Y and Child W in their home in the United States. Agency X, a U.S. agency, gathers information on the adjustment of Child W as a member of the family and inquires into the social and educational progress of Child W. Agency X must be accredited, approved, or supervised. Agency X's activities constitute post-placement monitoring, which is an adoption service. In contrast, if Person Z provided counseling for Prospective Adoptive Parent(s) Y and/or Child W, but provided no adoption services in the United States to the family, Person Z would not need to be approved or supervised. Post-placement counseling is different than post-placement monitoring because it does not relate to evaluating the adoption placement. Post-placement counseling is not an adoption service and does not trigger the accreditation/approval requirements of the IAA or the UAA and this part.

Example 11. Post-adoption services. Foreign Country H requires that post-adoption reports be completed and sent to its Central Authority every year until adopted children reach the age of 18. Agency X, a U.S. agency, provides support groups and a newsletter for U.S. parents that have adopted children from Country H and encourages parents to complete their post-adoption reports annually. Agency X does not need to be accredited, approved, or supervised because it is providing only post-adoption services. Post-adoption services are not included in the definition of adoption services, and therefore, do not trigger accreditation/approval requirements of the IAA or the UAA and this part.

Example 12. Assuming custody and providing services after a disruption. Agency X provides counseling for Prospective Adoptive Parent(s) Y and for Child W pending the completion of Child W's intercountry adoption. The placement eventually disrupts. Agency X helps recruit and identify new prospective adoptive parent(s) for Child W, but it is Agency P that assumes custody of Child W and places him in foster care until an alternative adoptive placement can be found. Agency X is not required to be accredited, approved, or supervised because it is not providing an adoption service in the United States as defined in § 96.2. Agency P, on the other hand, is providing an adoption service and would have to be accredited, approved, or supervised.

Example 13. Making non-judicial determinations of best interest of child and appropriateness of adoptive placement of child. Agency X, a U.S. agency, receives information about and a videotape of Child W from the institution where Child W lives in a foreign country. Based on the age, sex, and health problems of Child W. Agency X matches Prospective Adoptive Parent(s) Y with Child W. Prospective Adoptive Parent(s) Y receive a referral from Agency X and agree to accept the referral and proceed with the adoption of Child W. Agency X determines that Prospective Adoptive Parent(s) Y are a good placement for Child W and notifies the competent authority in W's country of origin that it has found a match for Child W and will start preparing adoption paperwork. Agency X is performing an adoption service and must be accredited, approved, or supervised.

Example 14. Securing necessary consent to termination of parental rights and to adoption. Facilitator Y, a foreign facilitator, is accredited by Foreign Country Z. He has contacts at several orphanages in Foreign Country Z and helps Agency X, a U.S. agency, match children eligible for adoption with prospective adoptive parent(s) in the United States. Facilitator Y works with the institution that is the legal guardian of Child W in order to get the documents showing the institution's legal consent to the adoption of Child W. Agency X is the only U.S. agency providing adoption services in the case. If: Facilitator Y secured the necessary consent prior to Agency X's involvement in the case, and Agency X and Facilitator Y have not worked together in the current or previous accreditation cycle or if Agency X has accepted the case as part of a transfer plan, then Agency X could proceed if it verifies the consent secured by Facilitator Y in accordance with § 96.14(c) and § 96.46(c) and would not need to treat Facilitator Y as a supervised provider in this case. However, in any case thereafter in which Agency X works with Facilitator Y, Agency X must treat Facilitator Y as a foreign supervised provider.

Example 15. Parents acting on their own behalf. Prospective Adoptive Parent Y prepares and submits intercountry adoption-related documents to government authorities in Country A. An accredited agency or approved person must act as primary provider to ensure that all six adoption services are provided, develop and implement a service plan, and supervise any agency, person, or other non-governmental entity who assists Prospective Adoptive Parent Y in completing any adoption service. If the consent was obtained or a report on the child written by a foreign provider (with whom the primary provider has not previously worked in the current or previous accreditation cycle) before an accredited agency, approved person, or their supervised providers provided any adoption services in the case, the primary provider is not responsible for supervising that foreign provider's work in this case prior to the primary provider's entry on the case. However, the primary provider must verify, in accordance with § 96.46(c), any consents obtained by any such foreign provider, and any background study on the child or home study on the Prospective Adoptive Parent Y prepared by any such foreign provider. After the primary provider's entry on the case, any adoption services provided by the unsupervised foreign provider must be supervised. The primary provider does not need to supervise Prospective Adoptive Parent Y because prospective adoptive parents do not need to be accredited, approved, or supervised to act on their own behalf.

■ 13. Add a sentence to the end of the paragraph in § 96.17 to read as follows:

§ 96.17 Effective date of accreditation and approval requirements.

* * * Revisions to § 96.60(b) providing for the staggering of accreditation and approval renewal applications became effective on September 18, 2015.

Subpart E—Evaluation of Applicants for Accreditation and Approval

■ 14. Amend § 96.24 by revising the introductory text of paragraph (c) to read as follows:

§ 96.24 Procedures for evaluating applicants for accreditation or approval.

* * * * *

(c) The site visit(s) may include, but need not be limited to, interviews with birth parents, adoptive parent(s), prospective adoptive parent(s), and adult adoptee(s) served by the agency or person, interviews with the agency's or person's employees and members of its governing body, and interviews with other individuals knowledgeable about the agency's or person's provision of adoption services. It may also include a review of on-site documents. The agency or person must provide an appropriate setting for interviews and review of case documents. The accrediting entity must, to the extent practicable, advise the agency or person in advance of the type of documents it wishes to review during the site visit. The accrediting entity must require at least one of the evaluators to participate in each site visit. The accrediting entity must determine the number of evaluators that participate in a site visit in light of factors such as:

* * * * *

§ 96.25 [Amended]

■ 15. Amend § 96.25(c) by adding the phrase ''or engages in deliberate destruction of documentation,'' after the phrase ''as requested, ''.

§ 96.26 [Amended]

■ 16. Amend § 96.26(a) by removing the space within the word ''performance'' .

■ 17. Amend § 96.27 by revising paragraphs (a) and (c) through (g), and adding paragraph (h) to read as follows:

§ 96.27 Substantive criteria for evaluating applicants for accreditation or approval and for country specific authorization.

(a) The accrediting entity may not grant an agency accreditation or a person approval, or permit an agency's or person's accreditation or approval to be maintained, unless the agency or person demonstrates to the satisfaction of the accrediting entity that it is in substantial compliance with the standards in subpart F of this part and, to the extent that the agency or person wishes to act as primary provider under § 96.14(a) in a country that requires country specific authorization, that it is in substantial compliance with subparts N and F of this part.

* * * * *

(c) The standards contained in subpart F of this part apply during all the stages of accreditation and approval, including, but not limited to, when the accrediting entity is evaluating an applicant for accreditation or approval, when it is deciding whether to grant an agency or person applicable country specific authorization, when it is determining whether to renew an agency's or person's accreditation or approval or any applicable country specific authorization(s), when it is monitoring the performance of an accredited agency or approved person, and when it is taking adverse action against an accredited agency or approved person. Except as provided in § 96.25 and paragraphs (e) and (f) of this section, the accrediting entity may only use the standards contained in subpart F of this part when determining whether an agency or person may be granted or permitted to maintain accreditation or approval, and, where applicable, country specific authorization.

(d) The Secretary will ensure that each accrediting entity performs its accreditation and approval functions using only a method approved by the Secretary that is substantially the same as the method approved for use by each other accrediting entity. Each such method will include: An assigned value for each standard (or element of a standard); a method of rating an agency's or person's compliance with each applicable standard, including any country specific criteria for compliance with that standard under subpart N of this part; and a method of evaluating whether an agency's or person's overall compliance with all applicable standards establishes that the agency or person is in substantial compliance with the standards and can be accredited or approved. The Secretary will ensure that the value assigned to each standard reflects the relative importance of that standard to compliance with the Convention, the IAA, and the UAA, and is consistent with the value assigned to the standard by other accrediting entities. The accrediting entity must advise applicants of the value assigned to each standard (or elements of each standard) at the time it provides applicants with the application materials.

(e) If an agency or person previously has been denied accreditation or approval or country specific authorization, has withdrawn its application in anticipation of denial, or is reapplying for accreditation or approval after cancellation, refusal to renew, or temporary debarment, the accrediting entity may take the reasons underlying such actions into account when evaluating the agency or person for accreditation or approval or granting of country specific authorization, and may deny accreditation or approval or country specific authorization on the basis of the previous action.

(f) If an agency or person that has an ownership or control interest in the applicant, as that term is defined in section 1124 of the Social Security Act (42 U.S.C. 1320a–3), has been debarred pursuant to § 96.85, the accrediting entity may take into account the reasons underlying the debarment when evaluating the agency or person for accreditation or approval or country specific authorization, and may deny accreditation or approval or country specific authorization or refuse to renew accreditation or approval or country specific authorization on the basis of the debarment.

(g) Substantial compliance with the standards contained in subpart F of this part does not eliminate the need for an agency or person to comply fully with the laws of the jurisdictions in which it operates. An agency or person must provide adoption services in intercountry adoption cases consistent with the laws of any State in which it operates and with the Convention, the IAA, and the UAA. Persons that are approved to provide adoption services may only provide such services in States that do not prohibit persons from providing adoption services. Nothing in the application of subparts E and F should be construed to require a State to allow persons to provide adoption services if State law does not permit them to do so.

(h) The standards contained in subpart F of this part do not eliminate the need for an agency or person to comply fully with the laws of the foreign countries in which it acts. Accredited agencies or approved persons may only provide adoption services when authorized by the foreign country to do so, where such authorization is required.

Subpart F—Standards for Intercountry Adoption Accreditation and Approval

■ 18. Amend § 96.33 by revising paragraphs (a) and (e) through (i) and adding paragraphs (j) through (l) to read as follows:

§ 96.33 Budget, audit, insurance, and risk assessment requirements.

(a) The agency or person operates under a budget approved by its governing body, if applicable, for management of its funds. The budget discloses all remuneration (including perquisites) paid to the agency's or person's board of directors, managers, employees, supervised providers, and foreign providers either directly or through third party contracts or other indirect means.

* * * * *

(e) The agency's or person's balance sheets show that it operates on a sound financial basis and maintains on average sufficient cash reserves, assets, or other financial resources to meet its operating expenses for two months, taking into account its projected volume of cases and its size, scope, and financial commitments.

(f) The agency or person has a plan to transfer its intercountry adoption cases to an appropriate custodian if it ceases to provide or is no longer permitted to provide adoption services in intercountry adoption cases. The plan includes provisions for an organized closure and reimbursement to clients of funds paid for services not yet rendered.

(g) If it accepts charitable donations, the agency or person has safeguards in place to ensure that such donations do not influence child placement decisions in any way.

(h)(1)The agency or person assesses the risks it assumes, including by reviewing, among other things:

(i) Compliance with legal and regulatory requirements;

(ii) Health and safety;

(iii) Human resources practices;

(iv) Contracting practices and compliance;

(v) Client rights and confidentiality issues;

(vi) Financial risks; and

(vii) Conflicts of interest.

(2) The agency or person uses the assessment to meet the requirements in paragraph (i) of this section and as the basis for determining the type and amount of professional, general, directors' and officers', errors and omissions, and other liability insurance to carry.

(i) The agency or person maintains professional liability insurance in amounts reasonably related to its exposure to risk, but in no case in an amount less than $1,000,000 in the aggregate.

(j) The agency's or person's chief executive officer, chief financial officer, and other officers or employees with direct responsibility for financial transactions or financial management of the agency or person are bonded.

(k) Accounting records are kept up-to-date and balanced on a monthly basis, as demonstrated by:

(1) Timely reconciliation of the bank statement and subsidiary records to the general ledger;

(2) Up-to-date posting of cash receipts and disbursements;

(3) Monthly updating of the general ledger; and

(4) Review of the bank reconciliation by a person other than the person who performs the reconciliation or signs checks.

(l) The agency or person complies with the Foreign Corrupt Practices Act and other Federal laws. The agency or person has a system of internal controls and record keeping that ensures that funds spent directly or indirectly for performing any activity related to an intercountry adoption are executed and accounted for in accordance with the intended purpose of the payment.

■ 19. Revise § 96.34 to read as follows:

§ 96.34 Compensation.

(a) The agency or person does not compensate or contrive to compensate, directly or indirectly, any individual or entity involved in an intercountry adoption with an incentive fee or contingent fee for each child located or placed for adoption.

(b) The agency or person compensates its directors, officers, employees, and supervised providers or any other agent, individual or entity involved in an intercountry adoption who provide intercountry adoption services only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis rather than a contingent fee basis.

(c) The agency or person does not make any payments, promise payment, or give other consideration to any individual directly or indirectly involved in provision of adoption services in a particular case, except for salaries or fees for services actually rendered and reimbursement for costs incurred. This does not prohibit an agency or person from providing in-kind or other donations that are not intended to influence or affect a particular adoption. All such donations should be disclosed to the accrediting entity.

(d) The fees, wages, or salaries paid to the directors, officers, employees, supervised providers, or any other agent, individual or entity involved in an intercountry adoption on behalf of the agency or person are not unreasonably high in relation to the services actually rendered, taking into account what such services actually cost in the country in which the services are provided, the location, number, and qualifications of staff; workload requirements; budget; and size of the agency or person.

(e) Any other compensation paid or provided to the agency's or person's directors or members of its governing body is not unreasonably high in relation to the services rendered, taking into account the same factors listed in paragraph (d) of this section and its for-profit or nonprofit status.

(f) The agency or person identifies all vendors to whom clients are referred for non-adoption services and discloses to the accrediting entity and the agency's or person's clients, any corporate or financial arrangements and any family relationships with such vendors.

■ 20. Amend § 96.35:

■ a. By revising the introductory text of paragraph (b) and paragraphs (b)(8) and (9), and adding paragraph (b)(10);

■ b. By revising the introductory text of paragraph (c) and paragraph (c)(2); and

■ c. By removing and reserving paragraphs (c)(4) and (d)(2).

The additions and revisions read as follows:

§ 96.35 Suitability of agencies and persons to provide adoption services consistent with the Convention.

* * * * *

(b) In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval and any applicable country specific authorization under subpart N, the agency or person discloses to the accrediting entity the following information related to the agency or person, under its current or any former name:

* * * * *

(8) For the prior five-year period, any instances where the agency or person has filed for bankruptcy;

(9) Descriptions of any businesses or activities that are inconsistent with the principles of the Convention and that have been or are currently carried out by the agency or person, affiliate organizations, or by any organization in which the agency or person has an ownership or controlling interest; and

(10) Any instances where any current director, officer, or employee was involved in any of the activities in paragraphs (b)(1) through (9) of this section while employed by another entity involved in providing an adoption service.

(c) In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval, the agency or person (for its current or any former names) discloses to the accrediting entity the following information about its individual directors, officers, and employees (in their current or former capacities or employment):

* * * * *

(2) Any convictions, formal disciplinary actions or known current investigations of any such individual who is in a senior management position for acts involving financial irregularities;

* * * * *

■ 21. Revise § 96.36(b) to read as follows:

§ 96.36 Prohibition on child buying.

* * * * *

(b) The agency or person has written policies and procedures in place reflecting the prohibitions in paragraph (a) of this section and reinforces them in its employee training programs. The agency's or person's policies and procedures require its employees and agents to retain a record of the payment or fee tendered and the purpose for which it was paid for as long as adoption records are kept in accordance with 22 CFR part 98, and provide a copy thereof to the agency or person.

■ 22. Add paragraph (h) to § 96.37 to read as follows:

§ 96.37 Education and experience requirements for social service personnel.

* * * * *

(h) The agency or person has sufficient financial resources and appropriately qualified personnel in place and assigned to appropriate duties such that the agency or person can demonstrate that the agency or person can provide adoption-related services that involve the application of clinical skills and judgment, including post-placement counseling and support.

■ 23. Amend § 96.38 by revising paragraphs (a)(2), (b)(1), (4), and (7), and (d) to read as follows:

§ 96.38 Training requirements for social service personnel.

(a) * * *

(2) The INA provisions applicable to the immigration of children described in INA 101(b)(1)(F) and (G);

* * * * *

(b) * * *

(1) The factors in the foreign countries that lead to children needing adoptive families;

* * * * *

(4) Psychological issues facing children who have experienced trauma, including abuse or neglect, and/or whose parents' parental rights have been terminated because of abuse or neglect;

* * * * *

(7) The most frequent sociological, medical, and psychological problems experienced by children from the foreign countries served by the agency or person.

* * * * *

(d) The agency or person exempts newly hired and current employees from elements of the orientation and initial training required in paragraphs (a) and (b) of this section only where the employee has demonstrated competence in the topics outlined in those paragraphs and knowledge of the Convention, the IAA, and the UAA.

■ 24. Amend § 96.39 by revising paragraphs (a)(1) through (3) and adding paragraphs (a)(4) through (6) to read as follows:

§ 96.39 Information disclosure and quality control practices.

(a) * * *

(1) Its adoption service policies and practices, including general eligibility criteria and fees;

(2) The supervised, exempted, and foreign providers with whom the prospective client(s) can expect to work in the United States and in the child's country of origin and the usual costs associated with their services;

(3) A sample written adoption services contract substantially like the one that the prospective client(s) will be expected to sign should they proceed;

(4) Every country in which it is authorized by the foreign country or otherwise permitted to work;

(5) Every country for which the agency or person has received country specific authorization when so required by the Secretary; and

(6) Any past and current adverse action.

* * * * *

■ 25. Amend § 96.40 by:

■ a. Revising paragraphs (a) through (c);

■ b. Redesignating paragraphs (d) through (h) as paragraphs (g) through (k), respectively;

■ c. Adding new paragraphs (d) through (f); and

■ d. Revising newly redesignated paragraph (j).

The revisions and additions read as follows:

§ 96.40 Fee policies and procedures.

(a) *In general.* (1) Before prospective adoptive parent(s) contract with the agency or person for provision of adoption services, the agency or person provides:

(i) To all interested prospective adoptive parents, a written schedule of expected total fees and estimated expenses conforming to the categories of adoption expenses in the United States found in paragraph (b) of this section and in foreign countries found in paragraph (c) of this section; and

(ii) An explanation of the conditions under which fees or expenses may be charged, waived, reduced, or refunded if the service is not provided, and information regarding when and how the fees and expenses must be paid.

(2) If prospective adoptive parent(s) contact an agency or person after initiating or completing an adoption on their own behalf, the agency or person must identify in writing which adoption service(s) it will provide, including through supervision or verification, and the expected total fees and estimated expenses for each remaining service, or the fees for acting as a primary provider.

(b) *Expected fees and estimated expenses in the United States:* Before providing any adoption service to prospective adoptive parent(s), the agency or person itemizes and discloses in writing the expected fees and expenses in the United States in connection with an intercountry adoption including, but not limited to, the following:

(1) *Home study, training, preparation, post-placement and post-adoption reporting, and expenses.* (i) Expected fees and estimated expenses for home study preparation and, if necessary, review and approval, whether the home study is to be prepared directly by the agency or person itself, or prepared by a supervised provider, exempted provider, or approved person and reviewed and approved as required under § 96.47(c), or if the home study is to be prepared by a public domestic authority and the agency or person collects the associated fees;

(ii) Expected fees and estimated expenses for training and preparation for the prospective adoptive parents;

(iii) Expected fees and estimated expenses for preparation of post-placement and/or post-adoption reports.

(2) *Medical expenses related to the child.* Expected fees and estimated expenses for consultations, examinations, opinions, or certificates from medical professionals in the United States.

(3) *Fees to cover overhead and operating costs.* (i) Operational costs that will be charged on a pro rata basis for operating programs in the foreign country, such as but not limited to the agency's or person's employee travel to the foreign country;

(ii) Operational costs that will be charged on a pro rata basis to include personnel costs for personnel in the United States, administrative overhead, communications and publications costs, training and education for personnel, and other operational costs.

(4) *Legal and court fees.* Expected fees and estimated expenses provided for a specific adoption:

(i) For anticipated legal services in the United States; and

(ii) For U.S. court or other adjudicative fees.

(5) *Travel expenses.* If any travel, transportation, and accommodation services are to be arranged by the agency or person for the prospective adoptive parent(s), the expected fees and estimated expenses for these services; if travel and transportation services are not arranged by the agency or person for the prospective adoptive parents, an estimate of the direct cost to the prospective adoptive parents of travel, transportation, and accommodation services.

(6) *Fees for provision of adoption services.* Expected fees and estimated expenses for providers of adoption services, including:

(i) Supervised providers in the United States; and

(ii) Exempted providers in the United States.

(7) *Translation and documentation expenses.* Expected fees and estimated expenses for obtaining any necessary documents and for any translation of documents related to the adoption, along with information on whether the prospective adoptive parent(s) will be expected to pay such costs directly or to third parties, or through the agency or person. This category includes, but is not limited to, costs for obtaining, translating, or copying records or

documents required to complete the adoption; costs for the child's court documents, passport, adoption certificate and other documents related to the adoption; and costs for authentications, for notarizations and for certifications in the United States.

(c) *Expected fees and estimated expenses in a foreign country.* Before providing any adoption service to prospective adoptive parent(s), the agency or person itemizes and discloses in writing the expected fees and expenses in connection with an intercountry adoption in the foreign country as follows:

(1) *Medical expenses related to the child.* Expected fees and estimated expenses for consultations, examinations, opinions, or certificates from medical professionals in the foreign country.

(2) *Fees to cover overhead and operating costs.* Operational costs that will be charged on a pro rata basis in the foreign country, such as overhead or operating expenses in support of the agency's or person's foreign activities relating to intercountry adoption in general.

(3) *Legal and court fees.* Expected fees and estimated expenses provided for a specific adoption:

(i) For anticipated legal services in the foreign country; and

(ii) For foreign court or other adjudicative fees.

(4) *Support for child welfare.* Any fixed contribution, amount or percentage that the prospective adoptive parent(s) will be expected or required to make to child protection or child welfare service programs in the foreign country, either directly or indirectly, along with an explanation of the intended use of the contribution and the manner in which the contribution will be recorded and accounted for. Any such required contribution shall comply with the requirements of paragraph (e) of this section.

(5) *Travel expenses.* Expected fees and estimated expenses incurred in the foreign country for travel, guide, interpretation, accommodations or other services provided to the prospective adoptive parents in the foreign country and arranged by the agency or person, and for which the family would be responsible.

(6) *Fees for provision of adoption services.* Expected fees and estimated expenses for providers of adoption services, including:

(i) Supervised providers in the foreign country; and

(ii) Foreign providers.

(7) *Fees for other individuals or entities.* (i) Expected fees and estimated expenses to or for the Central Authority, competent authority or public foreign authority of the government of the foreign country, including but not limited to fees charged for services rendered or for processing fees;

(ii) Expected fees and estimated expenses paid to other individuals or entities in the foreign country either directly or through the agency or person or its supervised or other providers.

(8) *Translation and documentation expenses.* Expected fees and estimated expenses for obtaining any necessary documents and for any translation of documents related to the adoption, along with information on whether the prospective adoptive parent(s) will be expected to pay such costs directly or to third parties, or through the agency or person. This category includes, but is not limited to, costs for obtaining, translating, or copying records or documents required to complete the adoption, costs for the child's court documents, passport, adoption certificate, and other documents related to the adoption, and costs for authentications, for notarizations and for certifications in the foreign country.

(d) *All other fees and estimated expenses.* All other fees and estimated expenses not recorded and disclosed in paragraph (c) of this section must be recorded as part of paragraph (b) of this section, including expected fees and estimated expenses charged to prospective adoptive parents residing in a third country or in the foreign country.

(e) *Informing the accrediting entity of expected fees and estimated expenses.* Agencies and persons shall provide the accrediting entity with an itemized schedule of fees for each country for which the agency or person has an intercountry adoption program that includes the fee information established in paragraphs (b) and (c) of this section.

(f) If the agency or person provides support to orphanages or child-welfare centers in a foreign country for the care of children including, but not limited to, costs for food, clothing, shelter and medical care, or foster care services:

(1) The amounts paid should not be unreasonably high in relation to the services actually rendered, taking into account what such services actually cost in the country in which the services are provided; and

(2) The agency or person may not require prospective adoptive parents to pay fees or make contributions that are connected to the care of a particular child or are based on the length of time an adoption takes to complete, nor may they arrange, facilitate, or encourage such payments between prospective adoptive parents or any individual, entity or orphanage.

* * * * *

(j) The agency or person does not customarily charge additional fees and expenses beyond those disclosed in the adoption services contract and has a written policy to this effect. In the event that unforeseen additional fees and expenses are incurred, the agency or person or its supervised providers may charge such additional fees and expenses only under the following conditions:

(1) It discloses the fees and expenses in writing to the prospective adoptive parent(s);

(2) It obtains the specific consent of the prospective adoptive parent(s) prior to expending any funds in excess of $1000 for which the agency or person will hold the prospective adoptive parent(s) responsible; and

(3) It provides written receipts to the prospective adoptive parent(s) for fees and expenses paid directly by the agency or person in the foreign country and retains copies of such receipts.

* * * * *

■ 26. Revise § 96.41(b) to read as follows:

§ 96.41 Procedures for responding to complaints and improving service delivery.

* * * * *

(b) The agency or person permits any birth parent, prospective adoptive parent or adoptive parent, or adoptee to lodge directly with the agency or person signed and dated complaints about any of the services or activities of the agency or person including its use of supervised providers and verification of adoption services provided by foreign providers that he or she believes raise an issue of compliance with the Convention, the IAA, the UAA, or the regulations implementing the IAA or UAA, and advises such individuals of the additional procedures available to them if they are dissatisfied with the agency's or person's response to their complaint.

* * * * *

■ 27. Amend § 96.43 by:

■ a. Revising paragraphs (b)(3)(v) through (vii) and adding paragraphs (b)(3)(viii) through (xii);

■ b. Revising paragraphs (b)(4)(v) through (vii) and adding paragraphs (b)(4)(viii) through (xii); and

■ c. Revising paragraphs (b)(5) and (6).

The additions and revisions read as follows:

§ 96.43 Case tracking, data management, and reporting.

* * * * *

(b) * * *

(3) * * *

(v) Citizenship of the child;

(vi) Location of the child's adoption documentation and documentation relating to the citizenship or immigration status of the child;

(vii) Last known physical location of the child;

(viii) Name of legal guardian(s) or physical custodian(s) of the child;

(ix) The reason(s) for and resolution(s) of the disruption of the placement for adoption, including information on the child's re-placement for adoption and final legal adoption;

(x) The names of the agencies or persons that handled the placement for adoption;

(xi) The plans for the child; and

(xii) Which authorities have been notified of the disruption.

(4) * * *

(v) Citizenship of the child;

(vi) Location of the child's adoption documentation and documentation relating to the citizenship or immigration status of the child;

(vii) Last known physical location of the child;

(viii) Name of legal guardians or physical custodian of the child;

(ix) The reason(s) for and resolution(s) of the dissolution of the adoption, to the extent known by the agency or person;

(x) The names of the agencies or persons that handled the placement for adoption;

(xi) The plans for the child; and

(xii) Which authorities have been notified of the dissolution.

(5) Information on the shortest, longest, and average length of time it takes to complete an intercountry adoption, set forth by the child's country of origin, calculated from the time the child is matched with the prospective adoptive parent(s) until the time the adoption is finalized by a judicial or administrative body, excluding any period for appeal;

(6) Information on the range of adoption fees, including the lowest, highest, average, and the median of such fees, set forth by the child's country of origin, charged by the agency or person for intercountry adoptions involving children immigrating to the United States in connection with their adoption for each category in § 96.40(b) and (c).

* * * * *

■ 28. Amend § 96.44 by adding paragraphs (c) through (e) to read as follows:

§ 96.44 Acting as primary provider.

* * * * *

(c) If applying for CSA, the agency or person demonstrates its capacity to meet all requirements for the applicable country specific authorization according to subparts F and N of this part.

(d) The agency or person, when acting as primary provider, ensures that the steps in the intercountry adoption process are completed in accordance with applicable State, federal, and foreign law and in a manner that does not prejudice the child's eligibility for an immigrant visa petition approval and visa issuance under section 101(b)(1)(F) or (G) of the INA. For example, in Convention cases, this generally requires providing services so that the applicable immigrant visa petition is filed with USCIS before the petitioner completed the adoption or obtained legal custody for purposes of emigration and adoption. (See also 8 CFR 204.309(b)(1)). This section does not preclude an agency or person from acting as a primary provider in cases in which adoption services were already provided before that agency or person became involved.

(e) The agency or person, when acting as a primary provider, provides adoption services in a manner that, consistent with U.S. and foreign law, collects all appropriate and required documentation to demonstrate the child's eligibility for immigrant visa petition approval and visa issuance under section 101(b)(1)(F) or (G) of the INA.

■ 29. Amend § 96.46 by revising paragraphs (b)(4) and (c)(1) through (3) to read as follows:

§ 96.46 Using providers in foreign countries.

* * * * *

(b) * * *

(4) Requires the foreign supervised provider to compensate its directors, officers, and employees or agents who perform any activity related to an intercountry adoption on a fee-for-service, hourly wage, or salary basis, rather than based on whether a child is placed for adoption, located for an adoptive placement, or on a similar contingent fee basis;

* * * * *

(c) * * *

(1) Any necessary consent to termination of parental rights or to adoption obtained by the foreign provider was obtained in accordance with applicable U.S. law, foreign law and, in Convention countries, Article 4 of the Convention; in non-Convention countries, any necessary consents should be obtained consistent with Article 4 of the Convention.

(2) Any background study and report on a child in a case involving immigration to the United States (an incoming case) performed by the foreign provider was performed in accordance with applicable U.S. law, foreign law and, in Convention countries, Article 16 of the Convention; in non-Convention countries, such background study and report should be performed consistent with Article 16 of the Convention.

(3) Any home study and report on prospective adoptive parent(s) in a case involving emigration from the United States (an outgoing Convention adoption case) performed by the foreign provider was performed in accordance with applicable U.S. law, foreign law and Article 15 of the Convention.

■ 30. Add paragraph (e) to § 96.47 to read as follows:

§ 96.47 Preparation of home studies in incoming cases.

* * * * *

(e) If, based on new information relating to paragraph (a)(1) of this section or 8 CFR 204.311, the agency or person withdraws its recommendation of the prospective adoptive parent(s) for adoption or the agency that reviewed and approved a home study withdraws any such approval of the home study required under paragraph (c) of this section, the agency or person must:

(1) Notify the prospective adoptive parent(s), and if applicable, the home study preparer, of its withdrawal and the reasons for its withdrawal, in writing, within five business days of the decision, and prior to notifying USCIS;

(2) Notify USCIS of its withdrawal of its recommendation and/or approval and the reasons for its withdrawal, in writing, and within five business days of notifying the prospective adoptive parent(s), in accordance with the agency's or person's ethical practices and responsibilities under § 96.35(a);

(3) Maintain written records of the withdrawal of its recommendation and/or approval and the good cause reasons for the withdrawal;

(4) Handle fees for services not yet performed in accordance with § 96.40(a); and

(5) Comply with any applicable State law requirements and notifies any State competent authority discussed in 8 CFR 204.311(t).

■ 31. Revise § 96.48 to read as follows:

§ 96.48 Preparation and training of prospective adoptive parent(s) in incoming cases.

(a)(1) The agency or person verifies that prospective adoptive parent(s) have satisfactorily completed the training required by their State of actual or proposed residence in the United States to adopt a child through the State's child welfare system, or an equivalent where a State program is unavailable for prospective adoptive parent(s) who wish to complete an intercountry adoption. The agency or person shall not refer a child or charge for or contractually obligate the prospective adoptive parent(s) to pay for the following adoption services until the training required under this paragraph has been completed:

(i) Identifying a child for adoption and arranging an adoption;

(ii) Monitoring of a case after a child has been placed with prospective adoptive parent(s) until final adoption; and

(iii) Where made necessary by disruption before final adoption, assuming custody and providing (including facilitating provision of) child care or any other social service pending an alternative placement.

(2) This section does not preclude an agency or person from providing adoption services in cases in which that agency or person was not involved prior to the identification of a particular child or in cases where documented, compelling, urgent, and extraordinary circumstances involving the child's best interests require an expedited referral. Upon referral in such cases, the primary provider will be required to ensure the necessary training has been completed in a reasonable time.

(b) The agency or person also provides the prospective adoptive parent(s) with at least seven additional hours (independent of the home study) of preparation and training, as described in this paragraph, designed to promote a successful intercountry adoption. The agency or person provides such training before the prospective adoptive parent(s) travel to adopt the child or the child is placed with the prospective adoptive parent(s) for adoption. The preparation and training provided by the agency or person includes a combination of interactive discussion, counseling, and development of solution-oriented strategies to address the following topics:

(1) The intercountry adoption process, the general characteristics and needs of children awaiting adoption, and the in-country conditions that affect children in the foreign country from which the prospective adoptive parent(s) plan to adopt;

(2) The effects and long-term impact on children of the behavioral, medical, and emotional difficulties that may be prevalent in children who have faced the following:

(i) Malnutrition, relevant environmental toxins, maternal substance abuse, any other known genetic, health, emotional, and developmental risk factors associated with children from the expected country of origin;

(ii) Leaving familiar ties and surroundings and the grief, loss, and identity issues that children may experience in intercountry adoption;

(iii) Institutionalization, including the effect on children of the length of time spent in an institution and of the type of care provided in the expected country of origin;

(iv) Attachment disorders and other emotional problems that institutionalized or traumatized children and children with a history of multiple caregivers may experience, before and after their adoption;

(3) The general characteristics of successful intercountry adoptive placements, including information on the financial resources, time, and insurance coverage necessary for handling the child's and family's adjustment and medical, therapeutic, and educational needs, including language acquisition;

(4) The family's experience with adoption and discussion of any previous intercountry or domestic adoptions, anticipated future plans for bringing additional children into the family, the prospective adoptive parent(s) past and present parenting experience, the number and ages of other children, prior home study approvals and denials, past compliance with post-placement reporting required by the country of origin, and any medical, educational, or therapeutic needs of the current members of the family;

(5) Post-placement and post-adoption services that may assist the family to respond effectively to adjustment, behavioral, and other difficulties that may arise after the child is placed with the adoptive parent(s);

(6) General information about disruption of placement and dissolution of adoption and discussion of issues that may lead to disruption or dissolution, including how parent(s) may locate appropriate resources and specific points of contact for support;

(7) Any disrupted placements or dissolved adoptions in which the prospective adoptive parent(s) were involved, reasons for the past disruption or dissolution, and information about the welfare and whereabouts of any previously adopted children;

(8) The laws and adoption processes of the expected country or countries of origin, including foreseeable delays and impediments to finalization of an adoption; U.S. immigration processes and procedures relevant to the expected country (or countries) of origin; and the prospective adoptive parent(s)' rights and responsibilities in the event they determine not to proceed after arriving in the child's country of origin;

(9) The long-term implications for a family that has become multicultural through intercountry adoption;

(10) For prospective adoptive parent(s) seeking approval to adopt two or more unrelated children, the differing needs of such children based on their respective ages, backgrounds, length of time outside of family care, and the time management requirements and other challenges that may be presented in such an adoption plan; and

(11) Any reporting requirements associated with intercountry adoptions, including any post-placement or post-adoption reports required by the expected country of origin.

(c)(1) In order to prepare prospective adoptive parent(s) as fully as possible for the adoption of a particular child, the agency or person provides:

(i) At least three additional hours of training that:

(A) Take place after identification of a particular child and prior to acceptance of the referral by the prospective adoptive parent(s); and

(B) Include counseling on:

(*1*) The child's history and cultural, racial, religious, ethnic, and linguistic background;

(*2*) The known health risks in the specific region or country where the child resides; and

(*3*) Any other medical, social, background, birth history, educational data, developmental history, or any other data known about the particular child; and

(ii) A statement from the primary provider suitable for submission with the immigrant petition signed under penalty of perjury under United States law, indicating that all of the preparation and training provided for in § 96.48 has been completed.

(2) This section does not preclude an agency or person from providing adoption services in cases in which that agency or person was not involved prior to the identification of a particular child. If the child was referred prior to the involvement of an agency or person, the agency or person must complete this training requirement within a reasonable time after the agency or person is engaged to provide adoption services or must verify that it has already been completed. The agency or person may not continue to provide adoption services if a reasonable time has elapsed without completing the training.

(d) The agency or person provides such training through a combination of appropriate methods, including:

(1) Collaboration among agencies or persons to share resources to meet the training needs of prospective adoptive parents;

(2) Group seminars offered by the agency or person or other agencies or training entities;

(3) Individual counseling sessions; and

(4) Video, computer-assisted, or distance learning methods using standardized curricula; not to exceed 25 percent of the total training time for prospective adoptive parent(s) residing in the United States.

(e) The agency or person provides additional in-person, individualized counseling and preparation, as needed, to meet the needs of the prospective adoptive parent(s) in light of the particular child to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study.

(f) The agency or person provides the prospective adoptive parent(s) with additional training or counseling, if requested by the prospective adoptive parent(s), and information about print, internet, and other resources available for continuing to acquire information about common behavioral, medical, and other issues; connecting with parent support groups, adoption clinics and experts; crisis intervention and respite care; and seeking appropriate help when needed, including points of contact for assistance to disrupt a placement for adoption or dissolve an adoption in a manner that ensures the best interests of the child.

(g) The agency or person shall not exempt prospective adoptive parent(s) from all or part of the verification requirements in paragraph (a)(1) of this section, from the training requirements in paragraph (c)(1)(i) of this section, or from the certification requirements in paragraph (c)(1)(ii) of this section, but may exempt prospective adoptive parents from completing all or part of the training requirements referenced in paragraphs (a) and (b) of this section when:

(1) The agency or person confirms that no more than 24 months have elapsed since the prospective adoptive parent(s) satisfactorily completed identical training; and

(2) The agency or person determines that such previous training was adequate.

(h) The agency or person records the dates, nature, and extent of the training and preparation provided to the prospective adoptive parent(s) including, but not limited to, all of the training required in paragraphs (a) through (c) and (e) and (f) of this section in the adoption record.

■ 32. Revise § 96.50(c), (d), and (h) to read as follows:

§ 96.50 Placement and post-placement monitoring until final adoption in incoming cases.

* * * * *

(c) When a placement for adoption is in crisis in the post-placement phase, the agency or person takes all appropriate measures to provide or arrange for counseling by an individual or entity with appropriate skills to assist the family in dealing with the problems that have arisen; informs the parents of local and State laws and legal resources pertaining to disruption of placements and dissolution of adoptions and appropriate measures for making another placement of the child; explains potential risks to the child; and provides resources for addressing potential future crises including dissolution.

(d) If counseling does not succeed in resolving the crisis and the placement is disrupted, the agency or person assuming custody of the child assumes responsibility for making another placement of the child, in accordance with the agency's or person's written policy for handling disruptions.

* * * * *

(h) The agency or person takes steps to:

(1) Ensure that an order declaring the adoption as final is sought by the prospective adoptive parent(s), and in Convention adoptions is entered in compliance with section 301(c) of the IAA (42 U.S.C. 14931(c)); and

(2)(i) Notify the Secretary of the finalization of the adoption within thirty days of the entry of the order; or

(ii) Notify the Secretary of the disruption of, or where appropriate, the intent to disrupt, the placement within 24 hours, and sooner than that if possible, upon learning of such information.

■ 33. Revise § 96.51(b), (c), and (d) to read as follows:

§ 96.51 Post-adoption services in incoming cases.

* * * * *

(b) The agency or person informs the prospective adoptive parent(s) whether post-adoption services, including any post-adoption reporting, are included in the agency's or person's fees and, if not, enumerates the cost the agency or person would charge for such services. The agency or person also informs the prospective adoptive parent(s) in the adoption services contract whether it will provide services if an adoption is dissolved, and, if it indicates it will, it provides a plan describing the agency's or person's responsibilities or if it will not, provides information about local, State, and other entities that may be consulted for assistance in the event an adoption is dissolved.

(c) When post-adoption reports are required by the child's country of origin, the agency or person includes a requirement for such reports in the adoption services contract and takes all appropriate measures to encourage adoptive parent(s) to provide such reports, and notifies the Secretary in the event an adoptive parent(s) refuses to comply with such requirements.

(d) The agency or person notifies the Secretary of the dissolution of, or where appropriate, the intent to dissolve a final adoption immediately upon discovering such information. The agency or person does not return from the United States an adopted child whose adoption has been dissolved unless the Central Authority of the country of origin and the Secretary have approved the return in writing.

■ 34. Amend § 96.52 by revising paragraph (b)(1) and adding paragraph (f) to read as follows:

§ 96.52 Performance of Convention communication and coordination functions in incoming cases.

* * * * *

(b) * * *

(1) Transmit on a timely basis the home study, including any updates and amendments, to the Central Authority or other competent authority of the child's country of origin;

* * * * *

(f) The agency or person will notify the Secretary of the disruption of a placement or dissolution of an adoption immediately, or within 24 hours, and sooner than that if possible, upon discovering such information and, in consultation with the Secretary, take appropriate steps to notify the Central Authority or other competent authority in the child's country of origin.

§ 96.53 [Amended]

■ 35. Amend § 96.53(a)(2) by removing the semicolon from the end of the paragraph and adding a semicolon after "section".

■ 36. Amend § 96.60(b) by adding a sentence to the end of the paragraph to read as follows:

§ 96.60 Length of accreditation or approval period.

* * * * *

(b) * * * For agencies and persons that meet these two criteria, the Secretary, in his or her discretion, may consider additional factors in deciding upon an extension including, but not limited to, the agency's or person's volume of intercountry adoption cases in the year preceding the application for renewal or extension, the agency's or person's State licensure record, and the number of extensions available.

Subpart I—Routine Oversight by Accrediting Entities

■ 37. Amend § 96.66:
■ a. In paragraph (a) by removing "investigate" from the last sentence and adding in its place "review"; and
■ b. By revising paragraph (b) and adding paragraph (d).

The additions and revisions read as follows:

§ 96.66 Oversight of accredited agencies and approved persons by the accrediting entity.

* * * * *

(b) An accrediting entity may, on its own initiative, conduct site visits to inspect an agency's or person's premises or programs, with or without advance notice, for purposes of random verification of its continued compliance or to review a complaint. The accrediting entity may consider any information about the agency or person that becomes available to it about the compliance of the agency or person. The provisions of §§ 96.25 and 96.26 govern requests for and use of information. If an agency or person fails to provide requested documents or information within a reasonable time, or to make employees available as requested, or engages in deliberate destruction of documentation during the accreditation process or any subsequent investigation or review, the accrediting entity may deny accreditation or approval or, in the case of an accredited agency or approved person, take appropriate adverse action against the agency or person solely on that basis.

* * * * *

(d) The accrediting entity must require accredited agencies and approved persons to self-report significant changes and occurrences, pursuant to the accrediting entity's policies and procedures, to demonstrate their ongoing compliance with the standards and to maintain up to date contact information and data.

Subpart J—Oversight Through Review of Complaints

■ 38. Revise § 96.68 to read as follows:

§ 96.68 Scope.

The provisions in this subpart establish the procedures that will be used for reviewing complaints against accredited agencies and approved persons (including complaints concerning their use of supervised providers and verification of adoption services of foreign providers) that raise an issue of compliance with the Convention, the IAA, the UAA, or the regulations implementing the IAA or UAA, as determined by the accrediting entity or the Secretary, and that are therefore relevant to the oversight functions of the accrediting entity or the Secretary.

■ 39. Revise § 96.69(b) to read as follows:

§ 96.69 Filing of complaints against accredited agencies and approved persons.

* * * * *

(b) Complaints against accredited agencies and approved persons that raise an issue of compliance with the Convention, the IAA, the UAA, or the regulations implementing the IAA or UAA by parties to specific intercountry adoption cases and relating to that case may first be submitted by the complainant in writing to the primary provider and to the agency or person providing adoption services, if a U.S. provider is different from the primary provider, or the complaint may be filed immediately with the Complaint Registry in accordance with § 96.70. If the complainant considers that a complaint that was submitted to the complaint processes of the primary provider or the agency or person providing the services (if different) has not been resolved through that process, or if a complaint that it so submitted is resolved by an agreement to take action but the primary provider or the agency or person providing the service (if different) fails to take such action within thirty days of agreeing to do so, the complaint may also be filed with the Complaint Registry in accordance with § 96.70.

* * * * *

■ 40. Amend § 96.70:
■ a. In paragraph (a) by removing "establish" from the first sentence and adding in its place "maintain"; and
■ b. By revising paragraph (b)(1) to read as follows:

§ 96.70 Operation of the Complaint Registry.

* * * * *

(b) * * *

(1) Receive and maintain records of complaints about accredited agencies and approved persons, including complaints concerning their use of supervised providers and verification of adoption services provided by foreign providers and complaints regarding compliance with CSA, and make such complaints available to the appropriate accrediting entity and the Secretary.

* * * * *

§ 96.71 [Amended]

■ 41. Amend § 96.71:
■ a. In paragraph (a) by removing "investigating" from the first sentence and adding in its place "reviewing";
■ b. In paragraph (b)(1) by removing "that" and adding in its place "whether"; and
■ c. In paragraph (c) by removing "investigation" from the first sentence, and adding in its place "review".
■ 42. Revise § 96.72(b)(2) to read as follows:

§ 96.72 Referral of complaints to the Secretary and other authorities.

* * * * *

(b) * * *

(2) In violation of the INA (8 U.S.C. 1101 *et seq.*); or

* * * * *

Subpart K—Adverse Action by the Accrediting Entity

§ 96.77 [Amended]

■ 43. Amend § 96.77 by removing "§§ 96.33(e)" and adding in its place "§§ 96.33(f)", in paragraphs (b) and (c).

§ 96.79 [Amended]

■ 44. Amend § 96.79(c) by removing the words "The United States district court shall review the adverse action in accordance with 5 U.S.C. 706."

§ 96.87 [Amended]

■ 45. Amend § 96.87 by removing "§§ 96.33(e)" and adding in its place "§§ 96.33(f)".
■ 46. Add subpart N to read as follows:

Subpart N—Country Specific Authorization

Sec.
96.95 Scope.
96.96 Country specific authorization determined by the Secretary.
96.97 Application for CSA, length of CSA, reapplication.
96.98 Renewal of CSA; transfer of cases when renewal not sought.
96.99 Oversight of CSA by the accrediting entity.
96.100 Oversight of CSA through filing of complaints against accredited agencies and approved persons.
96.101 Review by the accrediting entity of complaints relating to compliance with CSA against accredited agencies and approved persons.
96.102 Referral of complaints relating to CSA to the Secretary and other authorities.
96.103 Adverse action against accredited agencies or approved persons not in substantial compliance with CSA.

96.104 Procedures governing CSA-related adverse action by the accrediting entity.
96.105 Responsibilities of the accredited agency, approved person, and accrediting entity following CSA-related adverse action by the accrediting entity.
96.106 Accrediting entity procedures to terminate CSA-related adverse action.
96.107 Administrative or judicial review of adverse action relating to CSA by the accrediting entity.
96.108 Oversight and monitoring of CSA by the Secretary.
96.109 Effective dates; transition.

§ 96.95 Scope.

This subpart applies when the Secretary, in his or her discretion, and in consultation with the Secretary of Homeland Security, determines that it is necessary to designate one or more countries for which an accredited agency or approved person must have country-specific authorization (CSA) in addition to accreditation or approval to act as primary provider under § 96.14(a) in connection with an intercountry adoption in those specified countries. Accreditation or approval is required for all agencies or persons who offer, provide, or facilitate the provision of any adoption service in the United States in connection with an intercountry adoption case, unless such agencies or persons are acting as supervised providers or exempted providers in that case. CSA is required for accredited agencies or approved persons to offer, provide, facilitate, verify, or supervise the provision of adoption services, except as a supervised provider or an exempted provider, in intercountry adoption cases with respect to a particular country designated for CSA.

§ 96.96 Country specific authorization determined by the Secretary.

(a) The Secretary may, in his or her discretion, in consultation with the Secretary of Homeland Security, determine that CSA is required for accredited agencies or approved persons to act as a primary provider in intercountry adoption cases with a particular foreign country. The Secretary will publish in the **Federal Register** a list of countries for which CSA is required. Changes to that list will also be announced via a **Federal Register** notice.

(b) An accredited agency or approved person that has received CSA from an accrediting entity and meets the requirements of § 96.97, may act as a primary provider in intercountry adoption cases with respect to the specific foreign country.

(c) In each intercountry adoption case with a country designated by the Secretary as requiring CSA, an accredited agency or approved person with the applicable CSA must act as the primary provider.

(d) CSA does not constitute authorization from a foreign government to engage in activities related to intercountry adoption. However, CSA ceases automatically and immediately upon the corresponding foreign country's withdrawal or cancellation of its authorization of the agency or person.

(e) To receive CSA, accrediting entities may also require an accredited agency or approved person to demonstrate that it is in substantial compliance with one or more selected accreditation and approval standards in subpart F of this part, as determined using a method approved by the Secretary, in consultation with the Secretary of Homeland Security, that may include:

(1) Increasing the weight of selected standards from subpart F; and

(2) Requiring the provision of additional or specified evidence to support compliance with selected standards from subpart F.

§ 96.97 Application for CSA, length of CSA, reapplication.

(a) *Application procedures.* The accrediting entity will establish application procedures for CSA. The procedures must be consistent with this section and be approved by the Secretary. Application for CSA is subject to any relevant provisions of an accrediting entity's fee schedule. CSA is governed by the relevant terms of the accrediting entity's rating method in § 96.27(d) and any applicable addenda thereto that contain country specific compliance criteria, published by the accrediting entity and approved by the Secretary.

(b) *Timing of application for CSA.* The application procedures for CSA may provide that application occurs, to the extent possible, concurrently with the initial application for accreditation or approval in accordance with subpart D or at renewal pursuant to the process outlined in subpart H. These procedures must also establish the process for an accredited agency or approved person to apply for CSA for a foreign country after its initial application for accreditation or approval or its renewal application.

(c) The accrediting entity must routinely inform applicants in writing of its decisions on their CSA applications—whether an application has been granted or denied—when those decisions are finalized. The accrediting entity must routinely provide this information to the Secretary in writing.

(d) The accrediting entity may, in its discretion, communicate with agencies and persons that have applied for CSA about the status of their pending applications to afford them an opportunity to correct deficiencies that may hinder or prevent approval of CSA.

(e) *Length of CSA.* The initial period of CSA will extend from the date CSA is granted until the end of the agency's or person's current period of accreditation or approval, except that a grant of CSA will not be for less than three years and will not exceed five years. In cases where an agency's accreditation or a person's approval will end before the minimum three years for CSA has passed, CSA will be suspended until the accreditation or approval has been renewed. Notwithstanding the CSA period granted, the CSA period ends upon the suspension or cancellation of the agency's accreditation or person's approval or the agency's or person's debarment by the Secretary.

(f) *Review of decisions to deny CSA.* (1) There is no administrative or judicial review of an accrediting entity's decision to deny an application for CSA. As provided in § 96.107, the decision to deny includes:

(i) A denial of the agency's or person's initial application for CSA;

(ii) A denial of an application made after cancellation or refusal to renew by the accrediting entity; and

(iii) A denial of an application made after cancellation or debarment by the Secretary.

(2) The agency or person may petition the accrediting entity for reconsideration of a denial. The accrediting entity must establish internal review procedures that provide an opportunity for an agency or person to petition for reconsideration of the denial.

§ 96.98 Renewal of CSA; transfer of cases when renewal not sought.

(a) The accrediting entity must advise accredited agencies and approved persons that it monitors the date by which they should seek renewal of CSA so that the renewal process can reasonably be completed prior to the expiration of the agency's or person's current accreditation or approval. Consistent with § 96.63, if the accredited agency or approved person does not wish to renew CSA, it must immediately notify the accrediting entity and take all necessary steps to complete its intercountry adoption cases and to transfer its pending intercountry adoption cases and adoption records to other accredited agencies or approved persons with the applicable CSA, or a

State archive, as appropriate, under the oversight of the accrediting entity, before its CSA expires.

(b) The accredited agency or approved person may seek renewal of CSA from a different accrediting entity than the one that handled its prior application. If it changes accrediting entities, the accredited agency or approved person must so notify the accrediting entity that handled its prior application by the date on which the agency or person must (pursuant to paragraph (a) of this section) seek renewal of its status. The accredited agency or approved person must follow the new accrediting entity's instructions when submitting a request for renewal and preparing documents and other information for the new accrediting entity to review in connection with the renewal request.

(c) The accrediting entity must process the request for CSA renewal in a timely fashion. Before deciding whether to renew CSA, the accrediting entity may, in its discretion, advise the agency or person of any deficiencies that may hinder or prevent its renewal and defer a decision to allow the agency or person to correct the deficiencies. The accrediting entity must notify the accredited agency, approved person, and the Secretary in writing when it renews or refuses to renew an agency's or person's CSA.

(d) Sections 96.24, 96.25, and 96.26, which relate to evaluation procedures and to requests for and use of information, and § 96.27, which relates to the procedures and substantive criteria for evaluating applicants for accreditation or approval or CSA will govern determinations about whether to renew accreditation or approval or make a CSA determination.

§ 96.99 Oversight of CSA by the accrediting entity.

(a) The accrediting entity must monitor agencies to whom it has granted CSA at least annually to ensure that they are in substantial compliance with the compliance criteria for the standards in subpart F of this part, as determined using a method approved by the Secretary in accordance with § 96.27(d). The accrediting entity must review complaints about accredited agencies and approved persons, as provided in subpart J of this part.

(b) An accrediting entity may, on its own initiative, conduct site visits to inspect an agency's or person's premises or programs, with or without advance notice, for purposes of random verification of its continued compliance with respect to CSA or to investigate a complaint relating to compliance with CSA. The accrediting entity may consider any information about the agency or person that becomes available to it about the compliance of the agency or person. The provisions of §§ 96.25 and 96.26 govern requests for and use of information.

(c) The accrediting entity must require accredited agencies or approved persons to attest annually that they have remained in substantial compliance with applicable CSA criteria and to provide supporting documentation to indicate such ongoing compliance with the applicable standards in subpart F of this part.

§ 96.100 Oversight of CSA through filing of complaints against accredited agencies and approved persons.

(a) Complaints relating to CSA will be subject to review by the accrediting entity pursuant to § 96.101, when submitted as provided in this section and § 96.70.

(b) Complaints related to compliance with CSA against accredited agencies and approved persons that raise an issue of compliance with one or more of the accreditation and approval standards in subpart F of this part may be submitted in accordance with § 96.69.

(c) An individual who is not party to a specific intercountry adoption case but who has information about an accredited agency or approved person may provide that information by filing it in the form of a complaint with the Complaint Registry in accordance with § 96.70.

(d) A Federal, State, or local government official or a foreign Central Authority may file a complaint with the Complaint Registry in accordance with § 96.70, or may raise the matter in writing directly with the accrediting entity, who will record the complaint in the Complaint Registry, or with the Secretary, who will record the complaint in the Complaint Registry, if appropriate, and refer it to the accrediting entity for review pursuant to § 96.71 or take such other action as the Secretary deems appropriate.

§ 96.101 Review by the accrediting entity of complaints relating to compliance with CSA against accredited agencies and approved persons.

(a) The accrediting entity must establish written procedures, including deadlines, for recording, reviewing, and acting upon complaints relating to compliance with CSA that it receives pursuant to §§ 96.69 and 96.70(b)(1). The procedures must be consistent with this section and be approved by the Secretary. The accrediting entity must make written information about its complaint procedures available upon request.

(b) If the accrediting entity determines that a complaint relating to CSA raises an issue of compliance with one or more of the accreditation and approval standards in subpart F of this part:

(1) The accrediting entity must verify whether the complainant has already attempted to resolve the complaint as described in § 96.69(b) and, if not, may refer the complaint to the agency or person, or to the primary provider, for attempted resolution through its internal complaint procedures;

(2) The accrediting entity may conduct whatever investigative activity (including site visits) it considers necessary to determine whether any relevant accredited agency or approved person holding CSA may maintain CSA as provided in § 96.27. The provisions of §§ 96.25 and 96.26 govern requests for and use of information. The accrediting entity must give priority to complaints submitted pursuant to § 96.69(d); and

(3) If the accrediting entity determines that the agency or person may not maintain CSA, it must take adverse action pursuant to section § 96.103.

(c) When the accrediting entity has completed its complaint review process, it must provide written notification of the outcome of its investigation, and any actions taken, to the complainant, or to any other entity that referred the information.

(d) The accrediting entity will enter information about the outcomes of its investigations and its actions on complaints into the Complaint Registry as provided in its agreement with the Secretary.

(e) The accrediting entity may not take any action to discourage an individual from, or retaliate against an individual for, making a complaint, expressing a grievance, questioning the conduct of, or expressing an opinion about the performance related to compliance with CSA of an accredited agency, an approved person, or the accrediting entity.

§ 96.102 Referral of complaints relating to CSA to the Secretary and other authorities.

(a) An accrediting entity must report promptly to the Secretary any substantiated complaint related to compliance with CSA that:

(1) Reveals that an accredited agency or approved person has engaged in a pattern of serious, willful, grossly negligent, or repeated failures to comply with the increased evidentiary requirements and weight of standards in subpart F of this part; or

(2) Indicates that continued CSA would not be in the best interests of the children and families concerned.

(b) An accrediting entity must, after consultation with the Secretary, refer, as appropriate, to a State licensing authority, the Attorney General, or other law enforcement authorities any substantiated complaints related to compliance with CSA that involve conduct that is:

(1) Subject to the civil or criminal penalties imposed by section 404 of the IAA (42 U.S.C. 14944);

(2) In violation of the INA (8 U.S.C. 1101 *et seq.*); or

(3) Otherwise in violation of Federal, State, or local law.

(c) When an accrediting entity makes a report pursuant to paragraph (a) or (b) of this section, it must indicate whether it is recommending that the Secretary take action to debar the agency or person, either temporarily or permanently.

§ 96.103 Adverse action against accredited agencies or approved persons not in substantial compliance with CSA.

(a) The accrediting entity must take adverse action when it determines that an accredited agency or approved person with CSA may not maintain CSA as provided in § 96.27(d). The accrediting entity is authorized to take any of the following actions against an accredited agency or approved person whose compliance the entity oversees. Each of these actions by an accrediting entity is considered a CSA-related adverse action for purposes of the regulations in this part:

(1) Suspending CSA;

(2) Canceling CSA;

(3) Refusing to renew CSA;

(4) Requiring an accredited agency or approved person to take a specific corrective action with respect to CSA to bring itself into compliance; and

(5) Imposing other sanctions including, but not limited to, requiring an accredited agency or approved person to cease providing adoption services in a particular case or in a specific foreign country.

(b) A CSA-related adverse action taken under this section relates only to an agency's or person's CSA. Such adverse action may be relevant to, but is not controlling of, adverse action related to accreditation and approval under § 96.75.

§ 96.104 Procedures governing CSA-related adverse action by the accrediting entity.

(a) The accrediting entity must decide which CSA-related adverse action to take based on the seriousness and type of violation and on the extent to which the accredited agency or approved person has corrected or failed to correct deficiencies of which it has been previously informed. The accrediting entity must notify an accredited agency or approved person in writing of its decision to take a CSA-related adverse action against the agency or person. The accrediting entity's written notice must identify the deficiencies prompting imposition of the CSA-related adverse action.

(b) Before taking a CSA-related adverse action, the accrediting entity may, in its discretion, advise an accredited agency or approved person in writing of any deficiencies in its performance that may warrant a CSA-related adverse action and provide it with an opportunity to demonstrate that a CSA-related adverse action would be unwarranted before the CSA-related adverse action is imposed. If the accrediting entity takes the CSA-related adverse action without such prior notice, it must provide a similar opportunity to demonstrate that the CSA-related adverse action was unwarranted after the CSA-related adverse action is imposed, and may withdraw the CSA-related adverse action based on the information provided.

(c) The provisions in §§ 96.25 and 96.26 govern requests for and use of information.

§ 96.105 Responsibilities of the accredited agency, approved person, and accrediting entity following CSA-related adverse action by the accrediting entity.

(a) If the accrediting entity takes a CSA-related adverse action against an agency or person, the action will take effect immediately unless the accrediting entity agrees to a later effective date.

(b) If the accrediting entity suspends or cancels the agency's or person's CSA, the agency or person must immediately, or by any later effective date set by the accrediting entity, cease to provide adoption services in all intercountry adoption cases relating to the corresponding foreign country. All procedures in § 96.77(b) governing the transfer of cases apply, except that the accredited agencies or approved persons that assume responsibility for transferred cases must have the applicable CSA.

(c) If the accrediting entity refuses to renew the CSA of an agency or person, the agency or person must cease to provide adoption services in all foreign countries corresponding to that CSA by the expiration of the earlier of either the agency's or person's CSA or the agency's or person's accreditation or approval. It must take all necessary steps to complete its intercountry adoption cases in those foreign countries before its CSA expires. All procedures in § 96.77(c) governing the transfer of cases apply, except that, to the extent possible, the accredited agencies or approved persons that assume responsibility for transferred cases must have the applicable CSA.

(d) The accrediting entity must notify the Secretary, in accordance with procedures established in its agreement with the Secretary, when it takes an adverse action that changes the CSA status of an agency or person. The accrediting entity must also notify the relevant State licensing authority as provided in the agreement.

§ 96.106 Accrediting entity procedures to terminate CSA-related adverse action.

(a) The accrediting entity must maintain internal petition procedures, approved by the Secretary, to give accredited agencies and approved persons an opportunity to terminate CSA-related adverse actions on the grounds that the deficiencies necessitating the adverse action have been corrected. The accrediting entity must inform the agency or person of these procedures when it informs them of the CSA-related adverse action pursuant to § 96.104(a). An accrediting entity is not required to maintain procedures to terminate CSA-related adverse actions on any other grounds, or to maintain procedures to review its CSA-related adverse actions, and must obtain the consent of the Secretary if it wishes to make such procedures available.

(b) An accrediting entity may terminate a CSA-related adverse action it has taken only if the agency or person demonstrates to the satisfaction of the accrediting entity that the deficiencies that led to the CSA-related adverse action have been corrected. The accrediting entity must notify an agency or person in writing of its decision on the petition to terminate the CSA-related adverse action.

(c) If the accrediting entity described in paragraph (b) of this section is no longer providing accreditation or approval services, the agency or person may petition any accrediting entity with jurisdiction over its application.

(d) If the accrediting entity cancels or refuses to renew CSA, and does not terminate the CSA-related adverse action pursuant to paragraph (b) of this section, the agency or person may reapply for CSA. Before doing so, the agency or person must request and obtain permission to make a new application from the accrediting entity that cancelled or refused to renew its CSA or, if such entity is no longer designated as an accrediting entity, from any alternate accrediting entity designated by the Secretary to give such permission. The accrediting entity may grant such permission only if the agency or person demonstrates to the satisfaction of the accrediting entity that the specific deficiencies that led to the CSA cancellation or refusal to renew CSA have been corrected.

(e) If the accrediting entity grants the agency or person permission to reapply, the agency or person may file an application with that accrediting entity in accordance with subpart D of this part.

(f) Nothing in this section shall be construed to prevent an accrediting entity from withdrawing a CSA-related adverse action if it concludes that the action was based on a mistake of fact or was otherwise in error. Upon taking such action, the accrediting entity will take appropriate steps to notify the Secretary and the Secretary will take appropriate steps to notify the relevant authorities or entities.

§ 96.107 Administrative or judicial review of adverse action relating to CSA by the accrediting entity.

(a) Except to the extent provided by the procedures in § 96.106, a CSA-related adverse action by an accrediting entity shall not be subject to administrative review.

(b) Section 202(c)(3) of the IAA (42 U.S.C. 14922(c)(3)) provides for judicial review in Federal court of adverse actions by an accrediting entity, regardless of whether the entity is described in § 96.5(a) or (b). When any petition brought under section 202(c)(3) raises as an issue whether the deficiencies necessitating the CSA-related adverse action have been corrected, the procedures maintained by the accrediting entity pursuant to § 96.106 must first be exhausted. CSA-related adverse actions are only those actions listed in § 96.103. There is no judicial review of an accrediting entity's decision to deny CSA, including:

(1) A denial of an initial application;

(2) A denial of an application made after cancellation or refusal to renew by the accrediting entity; and

(3) A denial of an application made after cancellation or debarment by the Secretary.

(c) In accordance with section 202(c)(3) of the IAA (42 U.S.C. 14922(c)(3)), an accredited agency or approved person that is the subject of a CSA-related adverse action by an accrediting entity may petition the United States district court in the judicial district in which the agency is located or the person resides to set aside the adverse action imposed by the accrediting entity. When an accredited agency or approved person petitions a United States district court to review the CSA-related adverse action of an accrediting entity, the accrediting entity will be considered an agency as defined in 5 U.S.C. 701 for the purpose of judicial review of the adverse action.

§ 96.108 Oversight and monitoring of CSA by the Secretary.

(a) *The Secretary's response to CSA related actions by the accrediting entity.* There is no administrative review by the Secretary of an accrediting entity's decision to deny CSA, or of any decision by an accrediting entity to take CSA-related adverse action.

(b) *Suspension or cancellation of CSA by the Secretary.* (1) The Secretary must suspend or cancel the CSA granted by an accrediting entity when the Secretary finds, in the Secretary's discretion, that the agency or person is substantially out of compliance with the relevant standards in subpart F of this part and that the accrediting entity has failed or refused, after consultation with the Secretary, to take action.

(2) The Secretary may suspend or cancel CSA granted by an accrediting entity if the Secretary finds that such action:

(i) Will protect the interests of children;

(ii) Will further U.S. foreign policy or national security interests; or

(iii) Will protect the ability of U.S. citizens to adopt children.

(3) If the Secretary suspends or cancels the CSA of an agency or person, the Secretary will take appropriate steps to notify the accrediting entity, the Permanent Bureau of the Hague Conference on Private International Law, and the applicable foreign country, as appropriate.

(c) *Reinstatement of CSA after suspension or cancellation by the Secretary.* (1) An agency or person may petition the Secretary for relief from the Secretary's suspension or cancellation of CSA on the grounds that the deficiencies necessitating the suspension or cancellation have been corrected. If the Secretary is satisfied that the deficiencies that led to the suspension or cancellation have been corrected, the Secretary shall, in the case of a suspension, terminate the suspension or, in the case of a cancellation, notify the agency or person that it may reapply for CSA to the same accrediting entity that handled its prior application for accreditation or approval. If that accrediting entity is no longer providing accreditation or approval services, the agency or person may reapply to any accrediting entity with jurisdiction over its application. If the Secretary terminates a suspension or permits an agency or person to reapply for CSA, the Secretary will so notify the appropriate accrediting entity as well as the applicable foreign country, as appropriate.

(2) Nothing in this section shall be construed to prevent the Secretary from withdrawing a cancellation or suspension if the Secretary concludes that the action was based on a mistake of fact or was otherwise in error. Upon taking such action, the Secretary will take appropriate steps to notify the accrediting entity, the Permanent Bureau of the Hague Conference on Private International Law, and the applicable foreign country, as appropriate.

§ 96.109 Effective dates; transition.

(a) When the Secretary designates a country for CSA, the Secretary, in consultation with the Secretary of Homeland Security, will establish and announce through a **Federal Register** notice an effective date by which CSA for that country is required.

(b) On and after the effective date described in paragraph (a) of this section, CSA is required in accordance with this subpart, except:

(1) In the case of a child immigrating to the United States, CSA is not required if the prospective adoptive parents of the child filed the applicable immigration related application or petition as prescribed by USCIS before the effective date described in paragraph (a) of this section, and the Secretary, in consultation with the Secretary of Homeland Security, determines that the circumstances underlying CSA do not compel requiring CSA for that case; or

(2) In the case of a child emigrating from the United States, CSA is not required if the prospective adoptive parents of the child initiated the adoption process in their country of residence with the filing of an appropriate application before the effective date described in paragraph (a) of this section and the Secretary determines that the circumstances underlying CSA do not compel requiring CSA for that case.

Dated: August 23, 2016.

David T. Donahue,

Acting Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 2016–20968 Filed 9–7–16; 8:45 am]

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

Vol. 81 Thursday,
No. 174 September 8, 2016

Part IV

The President

Proclamation 9483—National Childhood Cancer Awareness Month, 2016
Proclamation 9484—National Ovarian Cancer Awareness Month, 2016
Proclamation 9485—National Prostate Cancer Awareness Month, 2016

Federal Register
Vol. 81, No. 174
Thursday, September 8, 2016

Presidential Documents

Title 3—

The President

Proclamation 9483 of September 1, 2016

National Childhood Cancer Awareness Month, 2016

By the President of the United States of America

A Proclamation

More than 10,000 children are diagnosed with cancer each year. Although rare, pediatric cancer is the leading disease-related cause of death among children. As we invest in cutting-edge research and work to advance medical treatments to beat childhood cancer, each of us can help carry our vision of a cancer-free future forward. Each September, we remember those who lost their lives to cancer far too young and honor the courageous children who bring unwavering strength and optimism to their fight against cancer every single day, and we refocus our efforts on striving to cure cancer once and for all.

Cancer affects children of all ages, generally without a known cause. Over the last half-century, as cancer research and treatment has advanced, the outlook for children with cancer has greatly improved. We have witnessed tremendous improvements in overall survival rates, and a larger number of long-term survivors now look forward to longer life expectancies. Unfortunately, many face chronic health challenges or complications after they beat their cancer. As a Nation, we must recognize that there is more we must do to better understand and treat pediatric cancer.

My Administration continues to invest in the critical research we need to defeat this devastating disease. In 2014, I signed the Gabriella Miller Kids First Research Act, which established the 10-Year Pediatric Research Initiative Fund and has already helped divert millions of dollars every year to advancing childhood cancer research. Through our Precision Medicine Initiative—a bold research effort to revolutionize our approach to treating diseases by personalizing treatment based on specific genetic characteristics—we are already making powerful discoveries for cancer patients and looking to transform the ways we treat many types of cancer. And earlier this year, I tasked Vice President Joe Biden with leading a new national effort to fight cancer. The White House Cancer Moonshot Task Force—a collaborative effort to make a decade's worth of progress in preventing, diagnosing, and treating cancer in just 5 years—is working toward an ultimate goal of eliminating cancer as we know it.

To give children with cancer the care they need and reduce the financial burden that falls on their families, we have worked to provide quality, affordable health care to all people. The Affordable Care Act (ACA) has helped millions of Americans access medical care and enabled them to receive regular checkups, which can help detect cancer. Many children's cancer centers participate in clinical trials, which are partly responsible for much of the progress we have made in advancing treatment of childhood cancer; under the ACA, insurers can no longer drop or limit coverage because of participation in one of these trials. The ACA eliminated annual and lifetime limits on insurance coverage, and because the law prevents insurance companies from denying or limiting coverage for pre-existing conditions, children diagnosed with cancer now have a better chance at a healthy life.

During National Childhood Cancer Awareness Month, let us tell the stories of the brave children who battle cancer every day and thank the loved ones, health care professionals, and communities who lift them up. Let us renew our commitment to prevent, treat, and cure childhood cancer, and together ensure that all children can experience the full and healthy upbringing they deserve.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2016 as National Childhood Cancer Awareness Month. I encourage all citizens, government agencies, private businesses, non-profit organizations, and other groups to join in activities that will increase awareness and prevention of childhood cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

Presidential Documents

Proclamation 9484 of September 1, 2016

National Ovarian Cancer Awareness Month, 2016

By the President of the United States of America

A Proclamation

Causing more deaths than any other female reproductive system cancers, ovarian cancer affects women of all ages and backgrounds. But the incidence of ovarian cancer, and its death rate, have fallen in recent years. Today, cancer research is on the cusp of major breakthroughs, and it is of critical national importance that we accelerate this progress and keep reaching for prevention, treatment, and a cure. Each September, in honor of the women who have been taken by ovarian cancer and the brave individuals still fighting this disease, we reaffirm our commitment to carrying forward this important work.

It is estimated that more than 22,000 American women will be diagnosed with ovarian cancer this year, and due to a lack of effective screening tests and early warning signs, many of these cases will be caught at an advanced stage—making the cancer more difficult to treat, with a lower chance for recovery. Ovarian cancer is more common among older women and those who have it in their family history, but because most women are diagnosed without being at high risk, it is crucial that all women consult with their health care providers when experiencing some of its symptoms, which include pressure, swelling, and abdominal pain. I encourage everyone to visit www.Cancer.gov/Ovarian to learn more about the signs and symptoms of this disease.

Under the Affordable Care Act, annual and lifetime limits on insurance coverage have been eliminated, and critical preventive services like well-woman visits—which are now available without a copay or deductible—have been expanded for millions more women. The Act also prohibits insurance companies from denying coverage based on a pre-existing condition, including cancer, or from denying coverage due to a family history of cancer.

Earlier this year, I announced a new national effort to cure cancer. Led by Vice President Joe Biden, the White House Cancer Moonshot Task Force is promoting research efforts and breaking down barriers to progress to eliminate cancer as we know it. With the help of a nearly $1 billion initiative to jumpstart this work, we are harnessing the spirit of American innovation to identify new ways to prevent, diagnose, and treat cancer. The Task Force builds on the important work that Federal agencies have already been doing throughout my time in office to fight ovarian cancer. The Department of Defense Ovarian Cancer Research Program is supporting high-impact, cutting-edge research where it is needed most and has helped push these research priorities forward. And the Centers for Disease Control and Prevention has striven to raise awareness of the main types of gynecologic cancer, including ovarian cancer, and to encourage women to learn of warning signs and seek medical care.

For the mothers, sisters, daughters, partners, and families who face the pain and heartache of ovarian cancer, we must make America the country that cures cancer once and for all. During National Ovarian Cancer Awareness Month, as we recognize those in the medical community who work tirelessly to provide treatment and care and pay tribute to those who have lost their lives to this disease, let us resolve to increase awareness of ovarian cancer and shape a cancer-free future.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2016 as National Ovarian Cancer Awareness Month. I call upon citizens, government agencies, organizations, health care providers, and research institutions to raise ovarian cancer awareness and continue helping Americans live longer, healthier lives.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

[FR Doc. 2016–21817
Filed 9–7–16; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9485 of September 1, 2016

National Prostate Cancer Awareness Month, 2016

By the President of the United States of America

A Proclamation

Prostate cancer is one of the leading causes of cancer-related death in American men, and too many men and their families feel the pain and grief it brings. As a country, we must do everything in our power to support men who are battling prostate cancer, deliver the care and treatment they need, and defeat this devastating disease. A cancer-free future is within our grasp—with bold vision and daring optimism, we are pioneering medical breakthroughs in research and seeking to discover a cure for cancer in our time. During National Prostate Cancer Awareness Month, we remember all the men who lost their lives to this disease, and resolve to reach a tomorrow where prostate cancer is no longer a threat to our sons and grandsons.

In 2016, approximately 180,000 men will be diagnosed, and 26,000 men will lose their battle with prostate cancer. Incredible advancements have paved the way for better prevention, detection, and treatment of this disease, and over the past two decades, the incidence of new cases and mortality rates for prostate cancer have been steadily declining. Men who are African American, over the age of 65, or have a family history of prostate cancer are at higher risk and should be aware of risk factors and symptoms. I encourage all men to talk to their health care providers about how prostate cancer can affect them, and to learn more by visiting www.Cancer.gov/Prostate or www.CDC.gov/Cancer/Prostate.

The Affordable Care Act has ensured that more Americans have access to quality, affordable health insurance, and it prohibits insurance companies from denying coverage to someone simply because they have prostate cancer. The Act eliminates annual and lifetime limits on coverage and ensures individuals have the option to participate in clinical trials, which have proven helpful in advancing research of new treatment strategies and improving clinical care for men with prostate cancer.

This year, I asked Vice President Joe Biden to lead our Nation in a new effort to end cancer as we know it. The White House Cancer Moonshot Task Force is striving to make a decade of advances in cancer prevention, treatment, and care in just 5 years through the collaboration of Federal agencies, jumpstarted by a proposed nearly $1 billion investment. Additionally, the Department of Veterans Affairs is helping to introduce a series of pilot programs that will accelerate clinical research and care for veterans with prostate cancer using cutting-edge biotechnologies—they are also working to increase precision oncology research and strengthen personalized medicine for the treatment of prostate cancer among veterans. These efforts build on the goals of our Precision Medicine Initiative, which aims to deliver personalized care and apply medicine more efficiently and effectively based on genetics—and ultimately, to bring us closer to curing diseases like cancer.

This month, let us thank the countless researchers, medical professionals, and advocates who dedicate themselves to supporting survivors and beating cancer. Let us continue raising awareness of prostate cancer and renew our commitment to finding a cure once and for all.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2016 as National Prostate Cancer Awareness Month. I encourage all citizens, government agencies, private businesses, non-profit organizations, and other groups to join in activities that will increase awareness and prevention of prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

Reader Aids

Federal Register

Vol. 81, No. 174

Thursday, September 8, 2016

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

60235–60580	1
60581–61098	2
61099–61582	6
61583–61972	7
61973–62352	8

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

2800....61981

3 CFR

Proclamations:

9479....61973

9480....61975

9481....61977

9482....61979

9483....62347

9484....62349

9485....62351

Administrative Orders:

Notices:

Notice of August 30, 2016....60579

5 CFR

870....60235

2640....61099

Proposed Rules:

1800....60649

9801....61628

6 CFR

Proposed Rules:

5....60297

8 CFR

214....60581

10 CFR

171....61100

430....61982

Proposed Rules:

429....60784

430....60784

14 CFR

25....60236, 60240, 60241

39....60243, 60246, 60248, 60252, 60582, 61102, 61983, 61985, 61987, 61990, 61993, 61996, 61999

61....61583

71....62002, 62003

91....61583

135....61583

Proposed Rules:

39....62022, 62024, 62026, 62029, 62031, 62035, 62037

71....62040, 62041, 62044

382....61145

15 CFR

730....60254

732....60254

734....60254

736....60254

738....60254

740....60254

742....60254

743....60254

744....61595

746....60254

747....60254

748....60254, 61104

750....60254

754....60254

756....60254

758....60254

760....60254

762....60254

764....60254

766....60254

768....60254

770....60254

772....60254

774....60254

16 CFR

803....60257

Proposed Rules:

Ch. II....60298

314....61632

1500....61146

17 CFR

240....60585

275....60418

279....60418

Proposed Rules:

4....61147

275....60651, 60653

19 CFR

165....62004

21 CFR

20....62004

25....62004

170....62004

184....62004

186....62004

310....61106

570....62004

1308....61130

Proposed Rules:

15....60299

1308....61636

22 CFR

51....60608

120....62004

125....62004

126....62004

130....62004

Proposed Rules:

96....62322

24 CFR

Proposed Rules:

35....60304

26 CFR

1 60609
20 60609
25 60609
26 60609
31 60609
301 60609

27 CFR

Proposed Rules:
4 62046
9 62047
24 62046

28 CFR

66 61981
70 61981
104 60617

29 CFR

1910 60272
1915 60272
1926 60272
Proposed Rules:
1915 62052

30 CFR

250 61834
800 61612

32 CFR

199 61068
252 61615
706 62008
Proposed Rules:
50 60655

33 CFR

117 .....60620, 60621, 61615
165 .....61133, 61616, 62010
Proposed Rules:
100 61148
110 61639
165 60663

34 CFR

Proposed Rules:
200 61148

39 CFR

Proposed Rules:
501 61159

40 CFR

52 60274
81 61136
180 .....60621, 61617
228 61619
Proposed Rules:
52 .....60329, 62066

42 CFR

3 61538
402 61538
403 61538
411 61538
412 61538
422 61538
423 61538
460 61538
483 61538
488 61538
493 61538
1003 61538
Proposed Rules:
59 61639
88 60329

45 CFR

79 61538
93 61538
102 61538
147 61538
150 61538
155 61538
156 61538
158 61538
160 61538
303 61538
Ch. XIII 61294
Proposed Rules:
144 61456
146 61456
147 61456
148 61456
153 61456
154 61456
155 61456
156 61456
157 61456
158 61456

47 CFR

20 60625

48 CFR

Proposed Rules:
212 61646
227 61646
252 61646

49 CFR

Appendix G to Subchapter B of Ch. III 60633
393 60633
661 60278
Proposed Rules:
107 61742
171 61742
172 61742
173 61742
175 61742
176 61742
178 61742
180 61742
393 61942
571 61942
577 60332
Ch. X 61647

50 CFR

216 .....62010, 62018
223 .....62018, 62260
224 .....62018, 62260
622 60285
635 60286
648 .....60635, 60636
660 60288
665 61625
679 .....60295, 60648, 61142, 61143
Proposed Rules:
17 61658
217 61160
622 62069
648 60666
660 61161

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 4, 2016

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